

-Chief Executive's Office

Chief Executive: CJ Bull

**To: All Members of Cabinet:
RJ Phillips (Leader)
LO Barnett
AJM Blackshaw
H Bramer
JP French
JA Hyde
JG Jarvis
DB Wilcox**

Your Ref:

Our Ref: CJB/SAHC

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4th March 2008

Dear Councillor,

**MEETING OF CABINET
THURSDAY, 28TH FEBRUARY, 2008 AT 2.00 P.M.
THE COUNCIL CHAMBER, BROCKINGTON, 35 HAFOD ROAD, HEREFORD**

AGENDA (08/19)

**HEREFORDSHIRE COUNCIL - NOTICE UNDER REGULATION 15 OF THE LOCAL
AUTHORITIES (EXECUTIVE ARRANGEMENTS((ACCESS TO INFORMATION) REGULATIONS
2000 (AS AMENDED)**

Notice is hereby given that the following reports contain key decisions. When the decisions have been made, Members of the relevant Scrutiny Committee(s) will be sent a copy of the decision notices and given the opportunity to call-in the decisions.

Item No	Title	Portfolio Responsibility	Scrutiny Committee	Included in the Forward Plan Yes/No
4	Wyebriidge Academy	Children's Services	Children's Services	No
6/7	Edgar Street Grid	Corporate Strategy and Finance	Strategic Monitoring Committee	No

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.



Putting People First Providing for our Communities Preserving our Heritage Promoting the County Protecting our Future

County of Herefordshire District Council, PO Box 239, HEREFORD, HR1 1ZU

Main Switchboard (01432) 260000 - www.herefordshire.gov.uk

2. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is and leave the meeting room.

3. MINUTES

To approve and sign the Minutes of 21 February 2008. Minutes to follow.

4. WYEBRIDGE ACADEMY

To receive a report on the Wyebridge Academy. Report to follow.

WYEBRIDGE ACADEMY REPORT

To receive the report to follow on the Wyebridge Academy Statutory Notices.

5. FINANCIAL AND CONTRACTUAL PROCEDURE RULES

To receive a report on the Financial and Contractual Procedures Rules. Report to follow.

FINANCIAL AND CONTRACTUAL PROCEDURE RULES

To receive the report to follow on the Review of the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules.



6. EDGAR STREET GRID

To receive a report on the Edgar Street Grid. Report to follow.

EDGAR STREET GRID DEVELOPMENT - SELECTION OF PREFERRED FIRST PHASE DEVELOPMENT PARTNER

To receive the report to follow on the Edgar Street Grid Development.

EXCLUSION OF THE PUBLIC AND PRESS

In the opinion of the Proper Officer, the next item will not be, or is likely not to be, open to the public and press at the time it is considered.

RECOMMENDATION:

That the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act as indicated below.

7. EDGAR STREET GRID

To receive a report on the Edgar Street Grid. Report to follow.

This item has information relating to the financial or business affairs of any particular person (including the authority holding that information).

Yours sincerely,



CJ BULL
CHIEF EXECUTIVE

Copies to: Chairman of the Council
Chairman of Strategic Monitoring Committee
Vice-Chairman of Strategic Monitoring Committee
Chairmen of Scrutiny Committees
Group Leaders
Directors
Head of Legal and Democratic Services



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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of the Cabinet, of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50, for postage).
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If you have any questions about this Agenda, how the Council works or would like more information or wish to exercise your rights to access the information described above, you may do so either by telephoning Mrs Sally Cole on 01432 260249 or by visiting in person during office hours (8.45 a.m. - 5.00 p.m. Monday - Thursday and 8.45 a.m. - 4.45 p.m. Friday) at the Council Offices, Brockington, 35 Hafod Road, Hereford.



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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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WYEBRIDGE ACADEMY – STATUTORY NOTICES

PORTFOLIO RESPONSIBILITY: CHILDREN'S SERVICES

CABINET

28 FEBRUARY 2008

Wards Affected

St Martins & Hinton
Belmont
Hollington

Purpose

To authorise the publication of statutory notices instigating formal consultation over the proposal to create an Academy at Wyebridge Sports College.

Key Decision

This is a key decision because it is likely to be significant in terms of its effect on communities living or working in Herefordshire in an area comprising one or more wards.

It was not included in the Forward Plan however inclusion in the agenda gives the required notice in accordance with Section 15 of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000.

Recommendations

THAT

- (a) **the issue of statutory notices to enable the opening of an Academy at Wyebridge Sports College for 900 students aged 11-16 on 1 September 2008, and post-16 provision for 220 students at the start of the academic year following completion of the new building be authorised; and**
- (b) **a further report be made to Cabinet on 27 March 2008.**

Reasons

The Secretary of State will not give final approval to the creation of an academy until the statutory process required for the formal closure of the existing school and opening of the academy have been undertaken. The fact that the two notices are dependent on each other does make this a necessary procedural exercise.

Considerations

1. The move to Academy Status and the associated £22,000,000 capital investment is seen as a further step to secure high quality education in the secondary phase for

Further information on the subject of this report is available from George Salmon – Head of Commissioning and Improvement Tel – 01432 260802

the South Wye Area. From the point at which the school was in special measures and the pass rate for five or more GCSE's a little over 10%, the school under successive leadership has made consistent progress. In July 2007 the comparable pass rate at GCSE had risen to 52%. This reflected the quality of teaching and learning, and good practice in creating the right learning atmosphere. To create the right learning environment the major capital investment is now required. In the absence of the Academy Programme, the school would have to wait until it was part of the Building Schools for the Future wave, which is currently estimated to be around 2020.

2. The Statutory Notices are essential elements of the procedural requirement to change the status of the school from a Community College to an Academy.
3. Authorisation would lead to the publication of Statutory Notices, which invite within a minimum six week period, comments on the proposals. These comments would then be fed back to Cabinet to 'determine' the notices, and make a final decision on whether to approve, modify or reject them.
4. The proposed timescale for these next steps is as follows:

Cabinet Approve Issue of Notices	28 February 2008
Draft notices and documentation prepared	3 March – 14 March 2008
Printing and Publication of Notices	17 March – 28 March 2008
Consultation Begins (6 weeks minimum)	31 March 2008
Consultation Period Ends	23 May 2008
Comments Analysed and Cabinet Report Prepared	26 May – 27 June
Report to Cabinet Published	3 July 2008
Cabinet to Determine Notice	10 July 2008
Allow Scrutiny Call-In	(5 days)
Issue letters to Employees re Transfer	18 July 2008

5. In terms of service provision on the ground, little will change. The proposed size of the academy remains the same as present. Admission arrangements will remain the same. Places for September 2008 will be offered on 1 March 2008 as normal by the Local Authority (Parents were informed of the possibility of the school becoming an Academy and given a chance of amending their preferences). The Headteacher has been appointed to the post of Principal and all other staff will transfer under TUPE legislation.
6. The one exception to this 'no change' assessment is the proposal to create post-16 provision on the site. This has been the subject of debate, which should now be formalised. The proposed notices suggest that the 220 places will only come on stream when new buildings are created, which is estimated to be in September 2011. Cabinet will have the opportunity to consider issues raised following consultation.
7. There are other actions required to implement the Academy. A further report will be made to Cabinet on these issues, which will include the Outline Business Case, at the meeting in March. To maintain a timetable which would allow the opening of the academy in September, it is critical to issue statutory notices as soon as possible.

8. This report does not require Cabinet to make a decision on effecting the change of status from Sports College to Academy. It is the start of the statutory consultation process. A further report will be presented to Cabinet at which it will have to consider the business case for the change of status.

Financial Implications

There are some minor costs in issuing public notices, but these will be contained within existing budgets.

Risk Management

Authorisation is being sought at this stage to minimise the following risks.

- That the DCSF may withdraw its support for major capital investment for High School provision in the South Wye area;
- That change of status would not happen at the beginning of the next academic year and therefore extend the period of uncertainty;
- That continued uncertainty would endanger the real and substantial progress the school has made in the quality of teaching and learning.

Alternative Options

The Local Authority could withdraw its support for the academy proposal as a whole. This would jeopardise the very real achievement that Wyebridge Sports College has made in recent years and leave the future of high school provision in the South Wye area uncertain.

Consultees

Sponsors

Headteacher and Chair of Governors of Wyebridge Sports College

Appendices

No appendices attached

Background Papers

Cabinet Report 6 September 2007

Cabinet Report 13 December 2007

DCSF Closing a Maintained Mainstream School – A Guide for Local Authorities and Governing Bodies

REVIEW OF THE BUDGET AND POLICY FRAMEWORK PROCEDURE RULES, FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES

PORTFOLIO RESPONSIBILITY: CORPORATE STRATEGY AND FINANCE

CABINET	28 FEBRUARY 2008
AUDIT AND CORPORATE GOVERNANCE COMMITTEE	29 FEBRUARY 2008
STRATEGIC MONITORING COMMITTEE	6 MARCH 2008

Wards Affected

County-wide.

Purpose

1. To seek the views of Cabinet/Audit & Corporate Governance Committee/Strategic Monitoring Committee on proposed revisions to the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules attached as Appendices 3, 4 and 5 respectively to this report. This numbering convention reflects that in the Council's Constitution for these documents.
2. To seek views of Cabinet and Strategic Monitoring Committee to changes to the time by which Councillors must submit written Questions for Council.

Key Decision

3. This not a Key Decision.

Recommendation(s)

- THAT (a) Cabinet/Audit & Corporate Governance Committee/Strategic Monitoring Committee consider the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules attached to this report and determine whether they have any further comment they wish to make on them to Council on 7th March 2008 when they will be formally considered for adoption;**
- (b) the Head of Legal & Democratic Services ensures a thorough revision of the Scheme of Delegation for approval by Council in May 2008;**
- (c) the Head of Legal & Democratic Services carries out a thorough review of the remainder of the Constitution for approval by Council in July 2008; and**
- (d) the amendment to paragraph 4.25.1 of the Constitution is endorsed.**

Further information on the subject of this report is available from
Mrs Sonia Rees, Director of Resources, tel: (01432) 383518 or
Mr Alan McLaughlin, Head of Legal and Democratic Services, tel: (01432 260200)

Reasons

4. The Director of Resources' Section 151 Officer report on financial governance issues in ICT Services of September 2007 contained recommendations for review of the financial elements of the Council's Constitution. The recommendations from the Section 151 Officer's report were endorsed by the Crookall Review as an appropriate response given the circumstances to strengthening the Council's financial governance framework.
5. The Audit Commission has commented on the serious flaws in the operation of the Council's financial policies and procedures identified by the Section 151 Officer's report and the Crookall Review in their Annual Governance Letter for 2007, their Use of Resources report for 2008 and their Annual Audit & Inspection Letter for 2008.
6. The Council is now judged to be operating at below minimum requirements as far as the Internal Control element of the Use of Resources assessment for 2008 is concerned. The main reason for this is the financial governance issues identified last year. The Council is one of only four upper tier authorities with a below standard assessment for this element of the Use of Resources assessment.
7. Adoption by Council of the revised Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules attached to this report by the end of March 2008 is key to an improved assessment for Internal Control in the next Use of Resources assessment.

Considerations

REVIEW OF BUDGET AND POLICY FRAMEWORK PROCEDURE RULES, FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES

The story so far

8. The Section 151 Officer's report was considered by Cabinet and the Audit & Corporate Governance Committee in September 2007. The action plan contained in that report was approved for implementation by Cabinet and endorsed by the Audit & Corporate Governance Committee.
9. A key feature of the action plan in the Section 151 Officer report was the requirement to review the financial elements of the Council's Constitution to ensure accountabilities were clearly defined. It was agreed that these revisions should be ready for Council to consider at their meeting on 2nd November 2007. Given the extremely tight timescale, arrangements were made for the proposed revisions to be presented direct to Council provided the three Statutory Officers (Head of Paid Service, Chief Financial Officer and Monitoring Officer) were in agreement on the proposed revisions.
10. The Director of Resources and her team led on the revision of the documents. Four authorities were chosen as a benchmark against which to compare the financial elements of the Council's existing Constitution. The authorities chosen were Shropshire County Council, Kent County Council, East Riding of Yorkshire Council and St Helens Council. These were the four upper tier authorities with the very best Use of Resources assessments in 2007.

11. There was a wide degree of variation in style and approach in the four benchmark constitution documents. The best elements of the Council's existing financial governance framework were retained and the best elements from the other council's Constitutions used to strengthen the existing arrangements.
12. Council received proposed revisions to the Scheme of Delegation, Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules as planned on 2nd November 2007. The three Statutory Officers were in agreement on the proposed revisions. However, Members' attention was drawn to the fact that the arrangements within the proposed revisions to the Scheme of Delegation regarding consultation with local members warranted further consideration following adoption of the revised document.
13. Whilst noting the importance of improving the Council's financial governance arrangements as a matter of urgency given the recommendations in the Section 151 Officer's report, Council decided to await the outcome of the Crookall Review before adopting the proposed revised documents. This approach would allow the Section 151 Officer's recommendations and any Crookall Review recommendations relevant to the Council's Constitution to be considered along side each other.
14. Council also decided to ask the Audit & Corporate Governance Committee, Standards Committee and Constitutional Review Working Group to review the proposed revised documents before they were presented to Strategic Monitoring Committee, Cabinet and then Council for final adoption.
15. The Audit & Corporate Governance Committee received the proposed revised documents on 16th November 2007 and decided to establish a small working party to review them. The Audit & Corporate Governance Committee's working party reviewed the Scheme of Delegation, the Budget and Policy Framework Procedure Rules, the Financial Procedure Rules and the Contract Procedure Rules as presented to Council on 2nd November 2007. An updated set of documents was presented to the Audit & Corporate Governance Committee on 21st December 2007. The amended documents were approved by the Committee subject to a small number of typographical corrections.
16. The Standards Committee received the proposed revised documents for the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules on 18th January 2008. The Standards Committee had no comment to make on the proposed revised documents.
17. The Constitutional Review Working Group received the Budget and Policy Framework Rules, Financial Procedure Rules and Contract Procedure Rules as approved by the Audit & Corporate Governance Committee on 21st December 2007 at their meeting on 7th January 2008. At this meeting, the Constitutional Review Working Group asked that officers ensure the documents as approved by the Audit & Corporate Governance Committee provided absolute clarity on accountabilities as it was felt that this was not clear in some places. Officers were also asked to draft procedure guides for the new documents. The Constitutional Review Working Group arranged to meet again on 23rd January 2008.

18. The Constitutional Review Working Group duly met again on 23rd January 2008 and received a further version of the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules, this time containing comments and questions from the Legal Services team that had not been available previously. Officers were asked to review the documents again in the light of these comments and to ensure clarity regarding accountabilities was retained. The Constitutional Review Working Group also requested that flowcharts be developed for asset management, financial management and procurement processes and arranged to meet again on 11th February 2008.
19. The Director of Resources and Head of Legal & Democratic Services met with their teams to review the documents in the light of the detailed comments received from the Legal Services team. All the issues were resolved to the satisfaction of both the Director of Resources and the Head of Legal & Democratic Services. The documents were thoroughly reviewed again to ensure accountabilities remained clear. The Director of Resources and her team drafted 'mini guides' including diagrams depicting the asset management, financial management and procurement processes outlined in the documents. These are attached as appendices to this report.
20. The Constitutional Review Working Group met again on 11th February 2008 and received the latest draft of the three key documents and first drafts of the 'mini guides'. Some minor concerns remained that references to Directors taking action 'in consultation with' the relevant Cabinet Member blurred accountabilities. Officers reviewed the documents a further time and were asked to circulate the amended documents to members of the Strategic Monitoring Committee for its meeting on 18th February 2008.
21. The Constitutional Review Working Group has yet to consider the proposed revised Scheme of Delegation as approved by the Audit & Corporate Governance Committee on 21st December 2007. The new Chief Executive needs to have the opportunity to influence the way in which these are framed so that they both support the organisational development and Member development that will be taking place over the next 12 months and take into account the key messages from the Crookall Review. This will also provide the opportunity to take on board the issue of consultation with local members (paragraph 11 refers).
22. A complete review of the remainder of the Constitution, including the Scheme of Delegation, is necessary at the earliest possible opportunity to ensure that it reflects changes to the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Rules that Council will be asked to approve in March 2008. A review of the Scheme of Delegation is being programmed for the May 2008 Council meeting.
23. The Strategic Monitoring Committee considered the latest Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules on 18th February 2008. There were a number of detailed questions about the process for amending the financial governance elements of the Council's Constitution, officer accountabilities for the Constitution and elements thereof, plus concern that the latest version of the Financial Procedure Rules reduced the role and involvement of Cabinet Members and hence their scope to be informed, exercise oversight, guide and direct. A number of other anomalies, omissions and errors were also referred to. The Strategic Monitoring Committee decided to defer further consideration of the revised documents until a later meeting to allow these matters to be addressed. These issues are dealt with in a later section of this report.

24. Cabinet was due to consider the revised Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Rules (as amended for Strategic Monitoring Committee on 18th February 2008) at its meeting on 21st February 2008. Cabinet deferred consideration until its meeting on 28th February 2008 in order to allow time for the issues raised by the Strategic Monitoring Committee to be considered.

The Constitution – which officer is responsible for what?

25. The Council's Monitoring Officer (Head of Legal & Democratic Services) is delegated with overall responsibility for the Council's Constitution. He is responsible for ensuring that it is kept up to date, that it accords with legislative requirements, and that amendments are brought forward and agreed in line with the Constitution. In fulfilling this responsibility, the Monitoring Officer works closely with a number of officers who have specific responsibilities for certain elements of the Constitution.
26. The Director of Resources has specific responsibilities for the Financial Procedure Rules and Contract Procedure Rules as set out in those elements of the Constitution and the Scheme of Delegation.

The Constitution – what is the process for change?

27. Section 9.8.2.13 of the Council's current Constitution gives the Audit & Corporate Governance Committee the overview in respect of the contract and financial procedure rules and also codes of conduct. The Audit & Corporate Governance Committee does not have final say on any element of the Council's Constitution. The report to the Audit & Corporate Governance Committee on 21st December 2007 was clear on this point: the Committee was being asked to approve the amended Constitution for further consideration as part of the Constitution review process which would involve the Constitutional Review Working Group, Cabinet and ultimately full Council. Decisions on the Constitution are reserved to full Council. The Audit & Corporate Governance Committee's role is one of scrutiny on financial governance issues and it is responsible for advising the executive on existing or proposed financial governance policy and procedures.
28. However, Section 9.8.2.13 of the Constitution does need updating to reflect the division of responsibility for scrutinising the key elements of the Council's Constitution which is shared by the Audit & Corporate Governance Committee, the Standards Committee and the Strategic Monitoring Committee. This issue shall be resolved for the May 2008 Council meeting so that the remit each of these Committees has in respect of the Council's overall Constitution is clear.
29. Section 4.31 of the existing Constitution will need to be amended as a consequence of the above. This section deals with the process for making amendments to the Constitution. The current arrangements are that proposed changes are considered by the Strategic Monitoring Committee and then Cabinet prior to submission to Council. The Constitution needs to recognise the role the Audit & Corporate Governance Committee and the Standards Committee has. This issue shall be resolved for the May 2008 Council meeting.

Strategic Monitoring Committee's detailed questions

30. The issues discussed at Strategic Monitoring Committee on 18th February 2008 are outlined below in bold, italics type. Explanation is provided in the following paragraphs.

The role of the Director of Resources in land and property acquisitions as outlined in the Financial Procedure Rules: why has this changed from one of authorising land and property transactions to one of actioning them?

31. This is to reflect that fact that the Director of Resources has delegated responsibility for all land and property acquisitions which are in turn delegated in writing to the Head of Asset Management & Property Services. The reason for this set of delegations is that the professional expertise in such matters sits within the Resources Directorate. To 'authorise' implies the Director of Resources makes the final decision on whether to acquire an asset or not when this is not the case. It is for the Director of Resources to provide the professional support on all property acquisitions that have been properly approved in line with the Council's decision making policies, and managers must use this service.

The role of the Chief Executive: does paragraph 3.29 of the Financial Procedure Rules imply that the Chief Executive has the authority to assume the role of the Section 151 Officer?

32. This is not the case. This paragraph gives the Chief Executive the authority to assume the Director of Resources' delegated responsibilities with regard to section 3 only of the Financial Procedure Rules. This section deals with Asset Management, an area that does not impinge on the Director of Resources' Section 151 Officer responsibilities.

The revised Financial Procedure Rules appear to reduce the role and involvement of Cabinet Members in a number of places.

33. There needs to be a clear distinction between political accountability and managerial accountability. The Financial Procedure Rules deal with managerial responsibilities for financial management in detail.
34. The first section of the Financial Procedure Rules provides an overview of the responsibilities of Cabinet, Cabinet Members and officers in respect of the matters the document covers. Paragraph 1.9 has been further amended to clarify Cabinet Members' and Directors' responsibilities. The former oversee the financial management arrangements for the areas within their remit whilst the latter are responsible for delivering services within the agreed framework for financial management. References throughout the document to a Director proposing or taking an action in consultation with the relevant Cabinet Member have been removed as this wording did not give the precision needed on where the responsibility for delegated executive functions rests. Responsibility for delegated executive functions rests with officers in accordance with the Scheme of Delegation.
35. However, the Financial Procedure Rules have been strengthened to ensure that Cabinet Members receive the information they need to fulfil their responsibilities for overseeing financial management within their areas of responsibility. Directors shall be required to provide their Cabinet Members with evidenced assurance reports that the Council's system of internal control is being complied with. Cabinet Members shall be provided with detailed, monthly financial management information reports. Cabinet Members shall also be provided with a confidential copy of all audit reviews with an opinion that is less than satisfactory. These measures ensure that Cabinet Members have the information they need to hold the relevant Director to account.

36. Section 3 of the Financial Procedure Rules deal with asset management. There is no need for the Director of Resources to consult with the Cabinet Member (Resources) with regard to her responsibilities for ensuring that the Council occupies property in accordance with best practice and in the interests of the Council as a whole (paragraph 3.3 (b) refers). This is an executive function delegated to the Director of Resources and it is for her, working through the Head of Asset Management & Property Services, to ensure that this happens. Disputes between Directors on property matters (paragraph 3.3 (d) refers) or any other matter should be resolved by the Head of Paid Services, as manager of the Directors and officers of the Council, and not the Leader and Cabinet Member (Resources) as originally drafted. Such disputes would be a managerial rather than a political issue.
37. The requirement to consult with Members and other officers on all property related issues is set out in paragraph 3.3 (e) of the Financial Procedure Rules. The reference to consulting with the Cabinet Member in paragraph 3.14 which deals with the management and use of land and property assets was repetitious. The former paragraph 3.22 which dealt with the treatment of capital receipts was also repetitious in this respect.
38. Section 10 of the Financial Procedure Rules deals with capital budget management. Paragraph 10.2 has been changed to reflect the fact that it is for Corporate Management Board to make recommendations to Cabinet regarding the capital programme. In compiling those proposals, members of the Corporate Management Board are required to consult with the relevant Cabinet Member. This requirement is set out in the guidance issued to officers as part of the capital planning process.
39. Section 11 of the Financial Procedure Rules deals with budgetary control. Paragraph 11.3 has been redrafted to reflect the Director of Resources' responsibility for ensuring that officers and Cabinet Members have monthly financial management information reports. Cabinet Members' responsibilities for overseeing financial management in their areas of responsibility, equipped with that information, is covered in Section 1 of the Financial Procedure Rules.

There are some errors, omissions and anomalies in the Financial Procedure Rules presented to the Strategic Monitoring Committee as supplementary papers for their meeting on 18th February 2008.

40. The ambiguity identified in paragraph 1.23 has been corrected by replacing 'their' with 'his/her'.
41. The references in Section 3 of the Financial Procedure Rules to monthly reporting of land and property transactions has been deleted as reporting arrangements on such matters are dealt with in paragraph 3.31. Paragraph 3.31 has been updated to make its meaning clear.
42. Paragraph 8.4 (b) has been amended to correct grammatical errors.
43. The < +1% budget tolerance previously referred to in paragraph 9.4 has been removed to reflect the draft financial strategy for 2008 – 2011 which removes this provision.
44. The text lost in paragraphs 9.5 and 11.11 has been reinstated.
45. The changes referred to in the preceding paragraphs that result from the comments made at Strategic Monitoring Committee on 18th February 2008 are shown as tracked changes in the Financial Procedure Rules document attached to this report.

What are the next steps?

46. The very latest version of the Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules are attached to this report, along with the 'mini guides'.
47. As outlined in paragraphs 3 to 6 of this report, it is imperative that Council is able to approve these documents at its March 2008 meeting. In order to achieve this deadline, Cabinet will consider the proposed revisions on 28th February 2008 and make its report into Council on 7th March 2008 in the usual way. The Audit & Corporate Governance Committee and the Strategic Monitoring Committee will have a further opportunity to consider the proposed revisions at their meetings on 29th February 2008 and 6th March 2008 under cover of this report. These Committees will also have the opportunity to provide feedback to Council on 7th March 2008. The final decision on the Constitution is one that is reserved to full Council.

Conclusions

48. The process of reviewing the financial elements of the Council's Constitution following the Section 151 Officer report and Crookall Review has taken longer than anticipated. It has been important to ensure that there is absolute clarity and understanding about the respective role of Members and officers in the day to day management of the Council's financial affairs. Finding the right balance for Herefordshire has been essential; as has making sure that past difficulties that were isolated to one part of the Council do not result in a framework that is too rigid for all managers to respond quickly and effectively to changing demands.
49. The Director of Resources and Head of Legal & Democratic Services both confirm that the proposed revisions represent an appropriate response to the Section 151 Officer report and the Crookall Review. The proposed revisions are significant: anything other than a major overhaul would not have been appropriate given the background, the level of concern expressed by the Audit Commission and the continued close monitoring of progress.
50. The revised framework is clear and promotes good financial governance without reducing managers' flexibility to get on with the day job. Indeed, the new framework, once adopted, provides protection for officers as they will have certainty about the processes they must follow and when to access the professional support they will need on asset management, financial management and procurement matters. The result should be better corporate working and hence better outcomes for the community as resources are used more effectively in support of corporate priorities.
51. The revised framework also provides the clarity needed at the heart of any performance management system in terms of who is responsible for what and what that responsibility is in any given circumstance. The Crookall Review was very concerned about the effectiveness of the Council's performance management arrangements in this respect.
52. The review of the financial elements of the Constitution has identified and will create anomalies within the remainder of the Constitution that need addressing as soon as possible.
53. The new Budget and Policy Framework Procedure Rules, Financial Procedure Rules and Contract Rules will require changes to the Scheme of Delegation.

54. A clearer definition of the respective roles of the Audit & Corporate Governance Committee, Standards Committee and Strategic Monitoring Committee is needed as they each have a scrutiny role in respect of different aspects of the governance framework. Clarifying the precise remit of these Committees to minimise duplication and overlap will need to be reflected in the Constitution. The way in which changes to the Constitution are made will need to be updated as a result of any such changes.
55. This further work on reviewing the Constitution will be lead by the Head of Legal & Democratic Services in consultation with appropriate officers. He will work with the Constitutional Review Working Group and relevant officers and then report to the Audit & Corporate Governance Committee, Standards Committee or Strategic Monitoring Committee as appropriate. Cabinet will then consider its recommendations to Council on the proposed changes, taking into account the advice and comments it receives from each of these Committees. These changes need to be ready for Council to consider at its May 2008 meeting in order to be able to demonstrate sufficient progress to the Audit Commission and to the community on improving corporate governance arrangements.

QUESTIONS FOR COUNCIL FROM COUNCILLORS

56. Paragraph 4.25 of the Constitution headed "Formal Questions from Councillors" and in particular paragraph 4.25.1 bullet point 2 reference to "10.30 a.m. on the last working day before the relevant Council meeting" should be changed to "10.30 a.m. on the Tuesday before the relevant Council meeting".

Financial Implications

57. There are no budgetary implications arising as a direct result of this report. The revised Budget & Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules promote excellence in financial management and the use of resources.

Risk Management

58. The proposed revisions to the Budget & Policy Framework Procedure Rules, Financial Procedure Rules and Contract Procedure Rules are designed to mitigate against the risk of non-compliance with the Council's financial policies and procedures and optimise the use of resources.
59. In-house financial training courses will be updated to include the revised Financial Procedure Rules and Contract Procedure Rules from April 2008. The Resources Directorate is willing to attend team meetings on request. A financial training programme for Members is being developed by the Audit & Corporate Governance Committee. This will include awareness sessions for members on the Financial Procedure Rules and Contract Procedure Rules. The documents and mini guides will be available electronically.

Alternative Options

60. These have been considered as part of the benchmarking exercise that informed the review of the Council's existing financial governance arrangements.

Consultees

61. The consultees for review process were the Corporate Management Board, the Leader and relevant Cabinet Members, the Head of Legal & Democratic Services, the Constitutional Review Working Group, the Audit & Corporate Governance Committee and the Strategic Monitoring Committee.

Appendices

62. The appendices to this report are as follows:
- Appendix 3 – Budget & Policy Framework Procedure Rules.
 - Appendix 4 – Financial Procedure Rules.
 - Appendix 5 – Contract Procedure Rules.

 - Appendix A – Mini Guide to Asset Management.
 - Appendix B – Mini Guide to Financial Management.
 - Appendix C – Mini Guide to Procurement

Background Papers

None identified.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. THE BUDGET AND POLICY FRAMEWORK

1.1 The Council is responsible for the adoption of a Budget and Policy Framework. This is set out in Standing Order 4.1 as follows:

- Children and Young People's Plan.
- Council's Corporate Plan including the Best Value Performance Plan.
- Crime and Disorder Reduction Strategy.
- Cultural Strategy.
- Economic Development Strategy.
- Herefordshire Plan (Sustainable Community Strategy incorporating the Local Agenda 21 Strategy).
- The Community Strategy for Herefordshire (A Sustainable Future for the County)
- Local Transport Plan.
- Unitary Development Plan / Local Development Framework.
- Youth Justice Plan.
- Medium-Term Financial Strategy including:
 - Annual capital and revenue budget;
 - Proposed contingencies, general reserves and specific reserves;
 - Statutory Council Tax calculations;
 - Treasury management policy and annual borrowing limits;
 - The Chief Finance Officer's statutory declarations on budget setting;
 - Virement limits; and
 - Scale of fees and charges.

Council cannot delegate responsibility for determining the Budget and Policy Framework.

Once a Budget and Policy Framework is in place, it is Cabinet's responsibility to implement it. The Cabinet can only determine matters affecting the Budget and Policy Framework where special urgency applies under rule 18 and 19 of the Cabinet Procedure Rules (Appendix 1 of the Constitution refers).

2. PROCESS FOR ESTABLISHING THE BUDGET AND POLICY FRAMEWORK

- 2.1 Cabinet will publicise by including in the Forward Plan, by publishing at the Council's offices and other methods (e.g. on its website and in the local press), a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation after publication of those initial proposals. The Chairman of the Strategic Monitoring Committee and Chairmen of the Scrutiny Committees will also be notified.
- 2.2 Budget consultees will include Town and Parish Councils, the Local Strategic Partnership, the Schools Forum, Business Ratepayers, Council Taxpayers, the Trade Unions, Political Groups, Strategic Monitoring Committee, Scrutiny Committees and such other organisations and persons as are deemed appropriate.
- 2.3 Having consulted on their initial proposals for any plan, strategy or budget that forms part of the Budget and Policy Framework, the Cabinet will draw up firm proposals taking into account the responses to the consultation. If the Strategic Monitoring Committee or relevant Scrutiny Committee wishes to respond to the Cabinet in that consultation process, then they may do so. As the Strategic Monitoring Committee and Scrutiny Committees are responsible for setting their own work programmes, it is incumbent on them to do so before the end of the consultation period. The Cabinet will take any response from the Strategic Monitoring Committee or Scrutiny Committees into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Cabinet's response.
- 2.4 Once the Cabinet has approved the firm proposals, the Director of Resources will refer them to the Council for decision.
- 2.5 If Council decides to reject or amend the Cabinet's firm proposals, the Cabinet will delay implementation of the proposals pending a further report to Council requesting the matter be reconsidered.
- 2.6 If Council decides to reject or amend a proposal from Cabinet, immediately prior to the close of the meeting, the Chairman of the Council will adjourn the meeting until a date agreed by Council on the recommendation of the Leader of the Council. This shall be the date that Cabinet will report further to Council on the matter and Council must specify a period of at least five working days from the date of the adjourned meeting within which the Leader may:
 - a) Submit a revision of the draft budget, plan or strategy with the Cabinet's reasons for any amendments for the Council to consider;Or
 - b) Inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement,
- 2.7 If the Chairman of the Council considers it is unlikely that the Council may agree the date for the Council meeting recommended by the Leader, he / she may agree with the Chairman an alternative date providing at least 10 working days elapse starting from the following day.
- 2.8 The Council must take into account Cabinet's reasons for revising any budget, plan or strategy or reasons for disagreeing with the Council's objections to its proposals before it amends or approves the Cabinet's revised draft budget, plan or strategy .

- 2.9 If a strategy, plan or budget allows for a policy to be developed and the financial implications reflected in the Council's Medium-Term Financial Management Strategy are in excess of £500,000, the relevant Director must report back to Cabinet for approval to detailed plans for implementing the policy and committing the financial resources.
- 2.10 The Cabinet has responsibility for overseeing the Council's financial affairs within the framework of the Contract Procedure Rules and Financial Procedure Rules. Advice and guidance is provided by the Statutory Officers.
- 2.11 Cabinet is responsible for reviewing and formulating the Council's budget with advice and guidance provided by the Director of Resources.
- 2.12 Each Director shall be responsible for making sure that the Council's Contract Procedure Rules and Financial Procedure Rules are observed for those functions within their terms of reference.
- 2.13 Each Director shall inform their respective Cabinet Member of compliance or exceptions to the Council's Contract Procedure Rules and Financial Procedure Rules.

3. DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- 3.1 If the Cabinet, Committees, Sub-Committees, or officers discharging functions on behalf of the Council want to take a decision outside of the Budget and Policy Framework or think a decision they want to make might be outside it, they must refer to the Chief Executive or Monitoring Officer, and also the Chief Finance Officer if it relates to the budget, for advice.
- 3.2 If the Chief Executive or Monitoring Officer, and Chief Finance Officer if it is a budget matter, determine that the decision would be outside the Budget and Policy Framework, then the proposal must form a recommendation to Council, unless the decision is a matter of urgency in which case the provisions of section 4 of the Budget and Policy Framework Procedure Rules apply.

4. URGENT DECISIONS OUTSIDE THE BUDGET AND POLICY FRAMEWORK

- 4.1 Cabinet, Committees, Sub Committees, or officers discharging functions of the Council may take a decision that is contrary to or not wholly in accordance with the Council's Budget and Policy Framework Procedures if the decision is a matter of urgency. However, such a decision may only be taken if:
 - a) It is not practical to convene a quorate meeting of the Council; and
 - b) The Chairman of the Strategic Monitoring Committee or relevant Scrutiny Committee agrees that the decision is a matter of urgency.
- 4.2 The reason why it is not practical to convene a quorate meeting of the Council and the agreement of the Chairman of the Strategic Monitoring Committee or relevant Scrutiny Committee to the decision being taken as a matter of urgency should be noted on the record of the decision. In the absence of the Chairman of the Strategic Monitoring Committee or relevant Scrutiny Committee, the Chairman of the Council or, in his / her absence, the Vice Chairman of the Council will be sufficient.

- 4.3 Following the decision, the decision taker will provide a full report to a subsequent Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. VIREMENT

- 5.1 Arrangements for budget virement will be in accordance with the provisions of the Council's Financial Procedure Rules.

6. IN-YEAR CHANGE TO BUDGET OR POLICY FRAMEWORK

- 6.1 Any decisions that involve an in-year change to the Budget or Policy Framework must be approved or adopted by the full Council unless:

- a) It is an urgent decision in which case it will be dealt with as set out in section 4 of the Budget and Policy Framework Procedure Rules and Rules 18 and 19 of Appendix 1;

Or

- b) It is within the scope of in-year decisions that the Council has previously agreed can be made by Cabinet.

7. CALL-IN OF DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 7.1 Where the Strategic Monitoring Committee or a Scrutiny Committee is of the opinion that a Cabinet decision is contrary to or not wholly in accordance with the Budget and Policy Framework and that it to be referred to Council, then it shall seek advice from the Chief Executive, Monitoring Officer and Chief Finance Officer.

- 7.2 For executive functions that are a Cabinet responsibility, the Chief Executive, Monitoring Officer and Chief Finance Officer will either:

- a) Prepare a report for the Cabinet if they determine that the decision the Cabinet has taken is outside the Budget and Policy Framework; in these circumstances, the Cabinet must report to Council; or
- b) Prepare a report for the Strategic Monitoring Committee or Scrutiny Committee if they determine that the Cabinet's decision was not contrary to the Budget and Policy Framework.

- 7.3 If the decision referred to in 7.2 (a) has yet to be made then that decision will become a recommendation to Council.

FINANCIAL PROCEDURE RULES

1. INTRODUCTION

- 1.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Director of Resources.
- 1.2 Authority is delegated to the Head of Financial Services to act on behalf of the Director of Resources in all respects in his/her absence or if requested by the Director to do so.

Background

- 1.3 The Financial Procedure Rules control the way the Council manages its finances and safeguards its assets. They form part of the Council's Constitution and are to be read in conjunction with other sections of the Constitution in particular:
- a) Parts 6–9 inclusive – the delegations to Cabinet, Committees and Sub-Committees.
 - b) Part 12 – the delegations to officers.
 - c) Appendix 3 – the Budget and Policy Framework Procedure Rules.
 - d) Appendix 5 – the Contract Procedure Rules.
- 1.4 The Financial Procedure Rules apply to every Member and officer of the Council and anyone acting on its behalf except where separate arrangements are made under the scheme for the Local Management of Schools.
- 1.5 The Council encourages innovation providing this is within the framework laid down by the Financial Procedure Rules and that the necessary risk management arrangements and approvals are in place.
- 1.6 Every report to Members shall contain a statement setting out the financial implications of the recommendation(s) proposed that has been approved by the Director of Resources.

General Responsibilities

- 1.7 Members and officers have a general responsibility for taking reasonable action to provide for the security of assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves best value.
- 1.8 Members, officers and others acting on behalf of the Council are required to have proper regard to the advice and guidance issued by the Director of Resources on the Financial Procedure Rules.

Cabinet Responsibilities

- 1.9 Cabinet is responsible for overseeing all aspects of the Council's finances. Day to day responsibility for the Council's finances rests with Directors and their managers as set out in these Financial Procedure Rules.
- 1.10 The Cabinet should maintain a written record where decision-making has been delegated.
- 1.11 Each Cabinet Member shall oversee compliance with the Council's Financial Procedure Rules for those functions within their terms of reference. Each Director is responsible for ensuring those functions within their terms of reference operate within the Council's

Financial Procedure Rules. Each Director is also responsible for providing Cabinet Members with evidenced assurance that this is the case.

Director of Resources' Responsibilities

- 1.12 The Director of Resources has been appointed under Section 151 of the Local Government Act 1972 as the officer with responsibility for the proper administration of the Council's financial affairs.
- 1.13 Reference in these Financial Procedure Rules to the Director of Resources shall be taken to include any officer nominated by the Director of Resources to act on his/her behalf.
- 1.14 The Director of Resources shall be entitled to attend a meeting of any body on which Members are represented where matters affecting the financial affairs of the Council are being discussed.
- 1.15 The Director of Resources, under the general direction of Cabinet, is responsible for determining the basis for all accounting procedures and financial records for the Council and for exercising a check over all financial matters.
- 1.16 The Director of Resources is responsible for maintaining a continuous review of the Financial Procedure Rules and advising the Council of any additions or changes necessary.
- 1.17 The Director of Resources is responsible for reporting, where appropriate, breaches of the Financial Procedure Rules or any other element of the Constitution that relates to the proper administration of the Council's financial affairs to the Council and / or Cabinet.
- 1.18 The Director of Resources is responsible for issuing advice and guidance to underpin the Financial Procedure Rules.

Corporate Management Board Responsibilities

- 1.19 Members of the Corporate Management Board should maintain a written record where decision-making has been delegated.
- 1.20 Members of the Corporate Management Board are responsible for ensuring that all employees are aware of the content of the Financial Procedure Rules and other internal regulatory documents and that they are complied with.
- 1.21 Members of the Corporate Management Board are responsible for consulting with the Director of Resources on any matter within their area of responsibility that is liable to materially affect the finances of the Council before any provisional or other commitment is incurred or before reporting the matter to a Cabinet Member.
- 1.22 Members of the Corporate Management Board are responsible for supplying the Director of Resources with all information necessary for the proper administration of the Council's affairs.
- 1.23 Members of the Corporate Management Board shall allow the Director of Resources and his/her authorised representatives access to all documents and records on demand.
- 1.24 Members of the Corporate Management Board shall observe the following division of duties in the allocation of financial responsibilities to employees:

- a) The duty to provide information regarding money due to or from the Council, including calculating, checking and recording, shall be separated from the duty of collecting or disbursing such money.
- b) The duty of examining and checking the accounts of each transaction shall be separated from the duty of making those transactions.

1.25 Members of the Corporate Management Board are responsible for ensuring those functions within their terms of reference operate within the Council's Financial Procedure Rules.

1.26 Members of the Corporate Management Board are responsible for providing Cabinet Members with evidenced assurance that the Council's Financial Procedure Rules are being complied with.

2. PREVENTING FINANCIAL IRREGULARITIES

2.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Director of Resources.

2.2 The Council shall not tolerate fraud or corruption of any form or degree in the administration of its responsibilities whether from inside or outside the Council.

2.3 The Council's expectation of propriety and accountability is that Members and staff at all levels shall lead by example in ensuring adherence to financial and legal requirements, rules, procedures and practices.

2.4 The Council also expects that individuals and organisations (e.g. suppliers, contractors, service providers) that it comes into contact with, shall act towards the Council with integrity and without thought or actions involving fraud or corruption.

2.5 The key controls regarding the prevention of financial irregularities are that:

- (a) The culture and tone of the Council is one of honesty and opposition to fraud and corruption.
- (b) All Members and staff act with integrity, and lead by example.
- (c) All individuals and organisations associated in any way with the Council shall act with integrity.
- (d) Managers with employee management responsibilities are required to deal swiftly and firmly with those who defraud the Council or seek to do so or who are corrupt.

Responsibilities of the Director of Resources

2.6 The Director of Resources is responsible for:

- (a) Maintaining adequate and effective audit arrangements for the Council.
- (b) Ensuring that financial irregularities are reported to the Head of Paid Service, Cabinet and the Audit and Corporate Governance Committee.
- (c) Determining, in conjunction with the Chief Internal Auditor, the scope of any internal enquiries or investigations, subject to consultation with the relevant member of the Corporate Management Board as appropriate.

- (d) Deciding, in consultation with the relevant member of the Corporate Management Board as appropriate, whether any matter under investigation should be referred for police investigation and take recovery action as appropriate on such matters.
- (e) Keeping the Head of Paid Service and Monitoring Officer informed if a suspected irregularity occurs involving staff who are the responsibility of the Director of Resources.
- (f) Ensuring, in conjunction with the relevant member of the Corporate Management Board, that the Council's disciplinary procedures are followed where the outcome of an audit or other investigation indicates fraud or irregularity.
- (g) Ensuring that any case of fraud or loss or financial irregularity or bribery or corruption discovered or suspected to exist which involves the Council's interest shall be dealt with in accordance with the Council's Anti-Fraud and Anti-Corruption policy.
- (h) Appointing senior officers to be the Council's Money Laundering Reporting Officer and deputy to the Council's Money Laundering Reporting Officer.

Responsibilities of Directors, Heads of Service and Officers

2.7 Directors, Heads of Service and officers are responsible for:

- (a) Ensuring that all suspected irregularities are reported to the Director of Resources and Chief Internal Auditor.
- (b) Instigating the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour.
- (c) Being aware of the Council's policies for the prevention of money laundering and other financial irregularities.

Responsibilities of the Money Laundering Reporting Officer

- 2.8 The Director of Resources shall appoint a Money Laundering Reporting Officer (MLRO). This officer shall ensure that all staff likely to receive payments from the public, businesses or professions are aware of the Authority's responsibilities under the Proceeds of Crime Act 2002, the Money Laundering Regulations 2003 and any other relevant acts and regulations, such as the anti-terrorism acts.
- 2.9 The MLRO, or the Deputy MLRO in the MLRO's absence, shall receive reports from staff about suspicious payments of any value for any purpose and payments in cash in excess of £10,000 or €15,000.
- 2.10 The MLRO shall report any instance of suspected money laundering to the Serious Organised Crime Agency.

3. ASSET MANAGEMENT

Introduction

- 3.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Asset Management and Property Services.
- 3.2 The Asset Management section of the Council's Financial Procedure Rules provides a framework of principles, minimum requirements, levels of authority and delegations to

ensure that Herefordshire Council property is managed effectively to achieve maximum value for money.

Overarching principles

- 3.3 A set of overarching principles govern the operation of this section of the Council's Financial Procedure Rules. These are:
- (a) All property owned or leased by Herefordshire Council is held corporately (including Herefordshire Council-owned schools).
 - (b) The Director of Resources is responsible for ensuring that the occupation of all Herefordshire Council property by Directorates is in accordance with best management practice and in the interests of the Council as a whole.
 - (c) Directorates have discretion to manage the property they occupy in order to promote effective service delivery. However, this discretion operates subject to the corporate responsibilities of the Director of Resources who has the authority to intervene in property matters to protect Herefordshire Council's overall interests.
 - (d) Resolution of disputes on property matters is through the Head of Paid Services.
 - (e) All property transactions should be referred to the Director of Resources who shall seek the comments of all interested parties, including relevant Cabinet Members, Directorates and local Members, before the decision is taken to proceed. All decisions must be taken in accordance with the delegations set out in this section of the Council's Financial Procedure Rules and the decision making procedures set out in the Council's Constitution.

Acquisitions

- 3.4 Land and property requirements are to be appropriately identified and appraised and all acquisitions are to have the necessary prior authority and funding, including an assessment of the impact on revenue of funding from borrowing.
- 3.5 Following formal approval in accordance with the Council's decision making procedures, all acquisitions (freehold and leasehold) shall be actioned by the Director of Resources. Cabinet Members, the Head of Financial Services, the Head of Legal & Democratic Services, Directors and local Members shall be kept informed as outlined in paragraph 3.3 (e) above and the delegations set out in paragraphs 3.6 to 3.12 below.

Non-Highways Acquisitions

- 3.6 For all non-highways acquisitions, the relevant Directorate shall provide the Director of Resources with:
- (a) A definition of the service requirement giving rise to the proposed acquisition.
 - (b) A full financial appraisal of options (including the 'do nothing' option) for meeting service delivery requirements (developed as appropriate with support from the Corporate Asset Strategy Group) for all proposals likely to cost more than £140,000.
 - (c) An evaluation of the potential (if any) for joint use.

3.7 Property acquisitions shall be dealt with in accordance with the appropriate provisions of this section of the Council's Financial Procedure Rules and decision making procedures set out in the Council's Scheme of Delegation.

3.8 The use of compulsory powers for acquisitions must be agreed by Cabinet.

Highways Acquisitions

3.9 The Director for Environment shall, in the case of all acquisitions for highway purposes, seek local Member views as part of the consultation process for highways and traffic schemes.

3.10 The Cabinet Member for Highways & Transportation and the Director for Environment (or officer authorised by him/her) shall approve highway scheme designs and budgets (including land acquisition costs) after considering the views of the Corporate Asset Strategy Group (CASG).

3.11 The Director of Resources may action acquisitions for highway purposes provided the scheme is in an approved programme or the property concerned has as a consequence been blighted.

3.12 The Director of Resources shall ensure that acquisitions for highways purposes that are part of a scheme that is not in an approved programme is referred for formal decision in accordance with the Council's Constitution and Financial Procedure Rules.

Management and Use

3.13 Property is to be used efficiently, effectively and economically with due regard to legislative requirements. When any property is no longer required for operational purposes it is to be formally declared surplus, at which point its management reverts to the Director of Resources. The budgetary implications of this are to be identified and reported to the Cabinet Member for Resources.

3.14 The occupation and use of property by a Directorate is subject to the Director of Resources responsibility for approving all material changes to property, including change of use, appropriations, granting/taking of interests, alterations or additions. Such changes must be reported to the Head of Financial Services for correct accounting treatment and apportionment of charges.

Premises Management

3.15 The Director of Resources has the authority to undertake reviews of the property portfolio, or parts of it, to determine if it is optimised in terms of its utilisation, cost and value and within this to challenge the retention or use of existing properties occupied by Directorates.

Building works

3.16 Major capital works for properties (schemes likely to cost in excess of £140,000) should be subject to a formal project appraisal and should be consistent with existing financial approval and procurement processes.

Health & Safety

3.17 Employees are required to ensure that, in respect of all property matters, all obligations under health and safety legislation and Herefordshire Council's health and safety policies are met.

Disposals

- 3.18 Land and property which is surplus to operational need is either to be reallocated to meet alternative needs or disposed of in line with statutory requirements and/or Herefordshire Council policy.
- 3.19 Directorates shall notify the Director of Resources of:
- (a) Any property (or part) that is:
 - Vacant.
 - Held against a future operational need.
 - Not used for the principal purpose for which it is held.
 - Likely to be surplus to requirements (with estimated time-scale).
 - (b) Any operational issues associated with such property (e.g. longer term requirements).
 - (c) Any statutory/process issues relevant to its disposal (e.g. prescribed consultation processes, reference to the Secretary of State, etc.).
 - (d) Any other issues which need to be considered prior to disposal.
- 3.20 The Director of Resources may identify any property (or part) that is considered, or could be made, surplus to operational requirements.

Treatment of Capital Receipts

- 3.21 Capital receipts from disposals are deemed to be a corporate capital resource available for allocation in line with corporate priorities.
- 3.22 All receipts are agreed through the Capital Strategy & Monitoring Group (CSMG) with no assumption on application to particular schemes.
- 3.23 Use of capital receipts are subject to the following rules:
- (a) Overspending on schemes dependent on receipts must be contained within the budget allocated to the directorate concerned.
 - (b) Capital schemes dependent on receipts are included in the Capital Programme only after full vetting and valuation by CSMG and ultimate approval by Cabinet or Council as appropriate.
 - (c) All dependencies, assumptions and risks to be clearly identified by the project sponsor leading to prudent valuation adopted in project sign-off.
 - (d) Scheme assumptions about the quantum, timing and phasing of receipts to be explicit and receipts cannot generally be “counted” until the sale is complete.
 - (e) Monitoring shall be undertaken by CSMG with Asset Management & Property Services using a traffic light system to assess the level of risk around the receipts.

- 3.24 The process for planning for the realisation of capital receipts shall take a medium term approach (3 years minimum) to allow:
- (a) Asset Management & Property Services to be able to work on projects in good time prior to consideration by CSMG. Larger, complex schemes can need 12-24 months lead-in.
 - (b) Asset Management & Property Services to agree the strategy for disposal including timescale, planning, marketing, viewing arrangements, temporary occupation, minimising holding costs, surplus declarations etc. as core components of project justification to CSMG.
 - (c) Directorates must deliver vacant possession when required by project plan.
 - (d) Risk analysis to be included as part of project plan.

Urgent Decisions

- 3.25 In exceptional circumstances, where an urgent decision is required on property matters, this shall be taken by the Director of Resources in accordance with the provisions of this section of the Council's Financial Procedure Rules and only after consultation with the Cabinet Member for Resources, the Head of Financial Services and the Head of Legal and Democratic Services. If the matter is outside the delegations set out in paragraph 3.30 below then the matter can only be authorised by the Cabinet Member for Resources in accordance with the procedures for the taking of urgent decisions set out in the Council's Constitution.
- 3.26 Any decisions made under the 'Urgent Decision' arrangements shall be reported to the relevant Director, Cabinet Members and Local Members.

Financial Procedure Rules

- 3.27 All of the protocols set out in the Council's Financial Procedure Rules and Schemes of Delegation must be adhered to. No transaction should be approved unless specific budgetary provision is identified, except where the purchase is approved under the authority given in paragraph 3.25 above.

Delegation to Officers

- 3.28 Subject to the consultation and approval provisions set out in this section of the Council's Financial Procedure Rules, the Director of Resources is authorised to:
- (a) Determine and settle the acquisition or disposal of any land or property, or an interest in land or property.
 - (b) Determine and settle the terms of a lease (taken or granted) for any land or property.
- 3.29 As provided by arrangements made in the Constitution for the Leader to discharge executive functions, the Chief Executive may exercise any power delegated under this section of the Council's Financial Procedure Rules to the Director of Resources. The Director of Resources may delegate his/her powers in writing to other officers.

Supporting Mechanisms

- 3.30 Whilst having no Constitutional or decision-making status, the management of assets and property shall be exercised through a variety of mechanisms which amplify and support this section of the Council's Financial Procedure Rules. The key mechanisms and their purpose are summarised below:

- (a) The **Corporate Asset Strategy Group** chaired by the Director of Resources provides a forum to discuss and agree the strategic direction for asset management and key property related initiatives. It provides a mechanism to assess whether this protocol is working in practice and to identify and resolve issues with regard to corporate and service responsibilities.
- (b) The **Capital Strategy and Monitoring Group (CSMG)** considers capital projects and significant changes to capital projects and ensures that proper planning and processes have been followed and risk assessments undertaken in line with the Council's Constitution, the project appraisal handbook and associated financial procedures. It makes recommendations to the Cabinet for schemes to be included in Herefordshire Council's capital programme.
- (c) The **Asset Management and Property Services Annual Service Delivery Plan**, prepared in accordance with Herefordshire Council's planning guidelines, identifies the main priorities of the Asset Management & Property Services division and includes as an annex a schedule of properties for disposal as agreed by Cabinet in the Asset Management Plan.
- (d) The **Strategic Asset Review Group** assesses the corporate need for land and property to support service delivery. It assists Services and Directorates to achieve a sustainable property asset base which is both sufficient and suitable for service delivery. It considers the opportunities for co-location and shared working with partners in the public sector.
- (e) The **Medium Term Financial Management Strategy** sets out Herefordshire Council's spending priorities and/or financial allocations over the medium term. All capital schemes are subject to the appraisal and decision making processes around the Capital Programme and the Medium Term Financial Management Strategy.

Information to the Council and Scrutiny

- 3.31 Property transactions are subject to the normal processes of publication and scrutiny.

4. AUDIT

- 4.1 Further advice on this section of the Financial Procedure Rules can be obtained from the Director of Resources or Chief Internal Auditor.

Responsibilities of the Director of Resources

- 4.2 The Director of Resources has delegated responsibility for maintaining an adequate and effective internal audit service.
- 4.3 Where an appropriate response to audit recommendations has not been made within the agreed period, the Director of Resources shall refer the matter to the Head of Paid Service and/or the Audit and Corporate Governance Committee.
- 4.4 The Director of Resources is responsible for ensuring that the Chief Internal Auditor submits an annual report to the Audit and Corporate Governance Committee detailing internal audit activity for the previous year and reporting significant findings and areas of concern.
- 4.5 The Director of Resources is responsible for producing an annual Statement on Internal Control for inclusion with the annual Statement of Accounts based on assurances provided by the Chief Internal Auditor.

- 4.6 The Director of Resources is responsible for ensuring that Audit Services complies with the Chartered Institute of Public Accountancy's Code of Practice for Internal Audit.
- 4.7 The Director of Resources is responsible for maintaining strategic and annual audit plans that take account of the relative risks of the activities involved. He/she shall liaise with the Corporate Management Board on the audit strategy and plan. In addition to the statutory requirement, this takes into account the need to seek added value, effective use of resources, improved performance and cost-effective controls.
- 4.8 The Director of Resources is to investigate promptly any apparent, suspected or reported irregularity or fraud he/she becomes aware of. He/she shall report his/her findings to the Head of Paid Service to discuss and agree appropriate legal proceedings and disciplinary action, consulting with the relevant member(s) of the Corporate Management Board as appropriate.

Responsibilities of Directors and Heads of Service

- 4.9 Officers are responsible for ensuring that internal and external auditors have:
- (a) Access at reasonable times to premises or land used by the Council.
 - (b) Access at reasonable times to any employee or employees.
 - (c) Access to all assets, records, documents, correspondence and control systems relating to any matter or business of the Council.
 - (d) Any information and explanation considered necessary concerning any matter under examination.
- 4.10 Officers are responsible for requiring any employee of the Council to account for cash, stores or any other Council property under their control and produce such items for inspection if required by Audit Services.
- 4.11 Officers are responsible for considering and responding within two weeks to recommendations in audit reports.
- 4.12 Officers are responsible for ensuring that any agreed actions arising from audit recommendations are carried out in a timely and efficient manner.
- 4.13 Officers are responsible for ensuring that new systems for maintaining financial records, or records of assets, or changes to such systems are discussed and agreed with the Chief Finance Officer prior to implementation.
- 4.14 Officers are responsible for notifying the Director of Resources or Chief Internal Auditor immediately in writing/electronic medium of any suspected or alleged fraud, theft, irregularity, improper use or misappropriation of Council property or resources. Pending investigation, all necessary steps should be taken to prevent further loss and secure records and documents against removal, destruction or alterations.
- 4.15 Officers are responsible for ensuring that all paperwork and systems are up to date, kept securely and are made available for inspection by internal or external audit.
- 4.16 Officers are responsible for ensuring all fundamental systems as defined by the Chief Internal Auditor and other financial systems are reconciled on a monthly basis and that records are up to date and available for internal or external audit inspection when required.

Responsibilities of the Head of Financial Services

- 4.17 The Head of Financial Services is responsible for drawing up the timetable and issuing guidance for final accounts purposes and to advise employees and the external auditors accordingly.

Responsibilities of the Chief Internal Auditor

- 4.18 The Chief Internal Auditor shall provide the Leader, Chair of Audit & Corporate Governance Committee and relevant Cabinet Member(s) with a copy of audit review reports with an unsound, unsatisfactory or marginal audit opinion. The Council's procedures for maintaining confidentiality shall apply.
- 4.19 The Chief Internal Auditor shall provide the Leader, Chair of Audit & Corporate Governance Committee and relevant Cabinet Member(s) with written confirmation of audit review reports with a satisfactory or good audit opinion.
- 4.20 The Chief Internal Auditor is responsible for providing the Audit & Corporate Governance Committee with a regular assurance report that highlights any areas of concern regarding the effectiveness or level of compliance with agreed systems of internal control.

5. IMPREST ACCOUNTS

- 5.1 Further advice on this section of the Financial Procedure Rules can be obtained from the Head of Financial Services.

Responsibilities of the Head of Financial Services

- 5.2 To consider requests from Heads of Service and Head Teachers to provide a cash or bank imprest account to meet minor expenditure on behalf of the Council.
- 5.3 To prescribe rules for operating imprest accounts.
- 5.4 To maintain a record of all advances made and reconcile to the Council's main financial system.

Responsibility of the Head of Benefit and Exchequer Services

- 5.5 To reimburse imprest holders as often as necessary to restore the imprest balance.

Responsibilities of Heads of Service and Head Teachers

- 5.6 To ensure that all officers operating an imprest account comply with the following procedures:
- (a) Obtain and retain vouchers to support each payment from the imprest account including official VAT receipts where appropriate.
 - (b) Make adequate arrangements in their office for the safe custody of the account including vouchers and any other supporting documentation.
 - (c) Produce upon demand by the Director of Resources cash and all vouchers to the total value of the imprest account.
 - (d) Record transactions promptly.

- (e) Reconcile and balance the account at least monthly with reconciliation sheets to be signed and retained by the imprest holder.
- (f) Provide the Head of Financial Services with a certificate of the value of the account held at 31st March by 31st May each year.
- (g) Ensure that the imprest is never used to cash personal cheques or to make personal loans.
- (h) Ensure that the only payments into the account are the reimbursement payments and any notes/coinage relating to purchases made by a cash advance from the imprest account.
- (i) Ensure income due to the Council is collected and banked as provided in Section 6 of the Council's Financial Procedure Rules and not through an imprest account.
- (j) On leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, account to the Head of Service or Head Teacher for the amount advanced to them.
- (k) Do not allow any bank imprest account to become overdrawn.
- (l) Ensure that payments are limited to minor items of permitted expenditure with a maximum transaction value set by the Director of Resources from time to time (set at £50 in February 2008).
- (m) Submit a claim for reimbursement at least monthly.
- (n) Notify the Head of Financial Services of any new signatories.

6. INCOME

- 6.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Benefit & Exchequer Services.
- 6.2 The Director of Resources has overall responsibility for the Council's income and collection functions and has sub-delegated this to the Head of Benefit and Exchequer Services who is required to ensure the effective collection and recording of all monies due to the Council.
- 6.3 The Director of Resources shall agree arrangements for the collection of all income and approve procedures and systems. In order to achieve this, the following controls must be followed:
 - (a) All income due to the Council is identified, charged correctly and billed promptly.
 - (b) All money received by an employee on behalf of the Council is paid without delay to the Director of Resources or to a nominated officer or into the Council's specified bank account and is properly recorded.
 - (c) All receipts given for money should be on an official receipt form.
 - (d) All income is collected from the correct person, at the right time using the correct procedures and appropriate stationery and effective recovery action to pursue outstanding sums is taken within defined timescales.
 - (e) A formal approval process for write-offs of uncollectable debts using the criteria detailed below.

- (f) Personal cheques shall not be cashed out of money held on behalf of the Council.
- (g) All income received shall be receipted immediately.
- (h) Officers shall bank all cash received immediately; its use for either personal or official purposes is strictly forbidden.
- (i) All paying in records shall be retained securely in line with the Council's policies on the retention of documents.

6.4 The Director of Resources has determined the following authorisations for writing off uncollectable debt:

- Under £150 – individual Service Managers.
- Between £150 and £500 – Revenues Manager.
- Between £500 and £1,000 – Head of Benefit and Exchequer Services.
- Between £1,000 and £20,000 – Director of Resources.

6.5 For write offs of amounts exceeding £20,000 the Director of Resources shall seek agreement from the relevant Cabinet Member and Cabinet Member (Resources).

6.6 The Director of Resources shall report details of amounts over £1,000 written off to Cabinet twice a year for information purposes.

6.7 Write off of amounts above £1,000 relating to other Directorates require the recommendation of the relevant Director.

7. PAYMENTS

7.1 Further information on this section of the Council's Financial Procedure Rules can be obtained from the Head of Benefit and Exchequer Services.

7.2 The Director of Resources has overall responsibility for making payments on behalf of the Council and has sub-delegated this to the Head of Benefit and Exchequer Services.

7.3 Individual Directors shall ensure that payments are authorised by appropriate officers who can certify that goods and services have been received and that price, quantity and quality are in accordance with the initial order, where appropriate.

7.4 Directors shall provide the Director of Resources with a list of authorised officers showing their signing levels with specimen signatures. This list should be reviewed at intervals to ensure is up to date and accurate and any changes being reported promptly.

7.5 Unless specifically authorised otherwise by the Director of Resources:

- (a) Directors must authorise all payments in excess of £250,000 (excluding VAT).
- (b) Heads of Service may authorise payments up to £250,000 (excluding VAT).
- (c) Managers who report to Heads of Service may authorise payments up to £100,000 (excluding VAT).
- (d) Other officers as authorised by the Director up to £5,000 (excluding VAT).

- 7.6 Once certified, all accounts paid through the centralised payment system must be passed to the payments section who shall ensure that the required payment is made to the correct person by the agreed method of payment and that all expenditure including VAT is accurately recorded against the correct budget.
- 7.7 Requests for payment shall be rejected by the Payments Manager unless certified by an officer using their full signature who has the appropriate level of authority.
- 7.8 All accounts should be paid promptly, normally within 30 days unless in dispute, having due regard to the Late Payment of Commercial Debts (Interest) Act 1998 and to maximise performance. All accounts received must be date stamped with the day of receipt.
- 7.9 The Director of Resources shall ensure that all appropriate payment documentation is retained for the required period of time in accordance with the 'Guidelines on the Destruction of Financial records'.

8. SALARIES, WAGES, PENSIONS, TRAVEL AND SUBSISTENCE

- 8.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Benefit & Exchequer Services.
- 8.2 The Director of Resources is responsible for making payments to employees, former employees and Members on behalf of the Council and has sub-delegated this responsibility to the Head of the Benefit & Exchequer Services.
- 8.3 Directors shall provide the Director of Resources with a list of officers authorised to sign claims and other payroll documents showing their signing limits with specimen signatures. This list should be updated and reported promptly to reflect staff changes.
- 8.4 Directors and Heads of Service shall ensure that:
- (a) Appointments are made in accordance with Council policies and approved staffing list and grades and that there is adequate budget provision for the length of the appointment.
 - (b) Information on starters, leavers, absences and variations to remuneration (other than annual increments and pay awards) is notified to Human Resources within the timescales set out in corporate Human Resources policies.
- 8.5 Directors are responsible for ensuring a record of annual leave entitlement due and the actual leave taken by each employee is maintained for their Directorate in a form recommended by the Head of Human Resources.
- 8.6 All claims for payment of allowances, subsistence, travelling and expenses must be submitted within one month of the period they relate to on the approved form, duly certified in a form approved by the Director of Resources with all required supporting evidence including VAT receipts for fuel and other expenses where appropriate. Any exceptions shall require individual certification by both the Director and the Head of Service.
- 8.7 The certification of claims by or on behalf of a Director or Head of Service shall be taken to mean that the certifying officer is satisfied that the journeys and the expenses incurred were necessary and authorised as being in line with the Council's policies on travel and subsistence claims.

8.8 The Director of Resources shall ensure that all appropriate payroll documents are retained for the required period of time in accordance with the 'Guidelines on the Destruction of Financial records'.

9. REVENUE BUDGET MANAGEMENT

9.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.

9.2 The Cabinet shall recommend an annual budget to Council that includes the following:

- (a) Annual capital and revenue budget.
- (b) Proposed contingencies, general reserves and specific reserves.
- (c) Statutory Council tax calculations;
- (d) Treasury management policy and borrowing limits.
- (e) The Chief Finance Officer's statutory declaration on budget setting.
- (f) Virement limits.
- (g) Scale of fees and charges.

9.3 Budget management ensures that resources allocated by Members are used for their intended purposes and that these resources are properly accounted for. Budgetary control is a continual process enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism to call to account managers responsible for defined elements of the budget.

9.4 By identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual cash limit, approved in setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the cash limited budget allocated to it.

9.5 Directors are expected to exercise their discretion in managing their budgets responsibly and prudently. For example, they should not support recurring expenditure from one-off sources of savings or additional income, or create future commitments including the full-year effect of decisions made part way through the year, for which they have not identified future resources. Directors must plan to fund such commitments from within their own budget.

9.6 The structure and format of the revenue budget should be sufficient to permit effective financial management. The structure and format of the revenue budget shapes how the rules around virement operate, the operation of cash limits and sets the level at which funds may be reallocated within budgets.

9.7 The key controls for the budget format are that it:

- (a) Complies with all legal requirements.
- (b) Complies with CIPFA's "Best Value Accounting – Code of Practice".
- (c) Reflects management accountability for service delivery.

9.8 The Director of Resources shall advise the Cabinet on the format of the budget that is approved by the full Council.

10. CAPITAL BUDGET MANAGEMENT

10.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.

10.2 The Cabinet shall, following the submission of proposals by the Corporate Management Board, recommend to Council:

- (a) A capital programme for each financial year.
- (b) A future indication of a capital programme over a three-year period.
- (c) The recommended funding method for each capital project (including the use of Prudential Borrowing, capital receipts, revenue or other financing methods).

10.3 All capital spending proposals including ICT should be subject to approval through the Council's capital planning processes.

10.4 Following the approval of a capital programme, and subject to any conditions specified in that programme, or specified by the relevant Cabinet Member, the relevant Director shall take all appropriate action to carry into effect the approved schemes, within the budget and timescale agreed in the capital programme. Any material variation in cost or timescale shall be reported to the Cabinet.

10.5 Any report for a project or policy of a capital nature shall include details of:

- (a) The estimated cost of the proposal.
- (b) Any phasing of the capital expenditure.
- (c) The proposed method of financing, whether by loan, revenue or otherwise.
- (d) The effect on the revenue estimates in the first and subsequent years.
- (e) The additional staff and grades required both initially and ultimately.
- (f) An assessment and measurement of the need for the scheme and the benefits it will produce.
- (g) A technical and financial appraisal of the alternative approaches to meeting the need.

10.6 In-year decisions on new capital spending requirements not in the approved budget should be dealt with via the Council's Scheme of Delegation.

11. BUDGETARY CONTROL

11.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.

General

- 11.2 Directors shall be responsible for budgetary control of the estimates relevant to their Directorate and, after consultation with the Director of Resources, shall keep the relevant Cabinet Member informed of any significant variations.
- 11.3 The Director of Resources shall provide Directors, budget holders and Cabinet Members with monthly financial management information reports.
- 11.4 Inclusion within an approved revenue budget provides authority for expenditure on those approved items, subject to any limitation expressed in the Constitution, the budget or by the relevant Cabinet Member.
- 11.5 Any new proposal or variation which would materially affect the finances of the Council shall require approval by the Cabinet.
- 11.6 Each Director shall be responsible for monitoring the revenue and any capital budget relevant to his/her Directorate to ensure that such budgets are properly spent and not exceeded.
- 11.7 If it appears to a Director that his/her overall cash limited budget may be exceeded, he/she shall report the details as soon as practicable to the Chief Executive, the Director of Resources and to the Cabinet Member. The relevant Cabinet Member shall then report on the matter to the Cabinet.
- 11.8 The Council may permit Directorates to carry forward managed under spends into the following financial year provided that all other budget targets have been met. The first call on any underspendings shall be to offset any Directorate overspends.
- 11.9 Managed underspends carried forward shall be part of the Directorate budget plan for the next financial year and must be used to fund one-off expenditure only. Carrying forward underspendings in order to ensure external funding is received is also allowed.
- 11.10 Windfall reductions in spend and any unbudgeted income shall be ring-fenced and transferred into the Council's General Reserves at the end of the financial year.
- 11.11 Action plans must be put in place by each Directorate at an early stage in the financial year in order to manage potential overspendings (e.g. due to additional spending or below target income). Where appropriate the additional spending or below target income should be met by virements from other elements of the Directorate budgets. All Directors are required to manage expenditure within the agreed budget for their areas of responsibility. Compliance with this requirement will be dependent upon the earliest possible implementation of such action plans and rigorous supervision to achieve the required outcome.
- 11.12 Underspendings where any savings should not accrue to the Council (e.g. schools standards fund, schools sickness absence scheme) can be carried forward.
- 11.13 The Director of Resources shall furnish each Director with periodic statements of income and expenditure under each head of approved estimate along with other relevant information.
- 11.14 It is the duty of Directors to ensure that responsibility for budgetary control is allocated to appropriate officers in their Directorates.
- 11.15 Directors shall monitor spend and income against budgets monthly and ensure, so far as practicable, that expenditure in excess of their net approved budgets is not incurred without prior approval. If actual income is expected to be below budget, this must also be actively managed.

- 11.16 Directors are required to put in place recovery plans for any overspend in excess of their net approved budget in consultation with the Director of Resources.
- 11.17 A budget shall normally be the planned income and expenditure for a service area or cost centre. However, budgetary control may take place at a more detailed level if this is required.
- 11.18 The key controls for managing and controlling the revenue budget are:
- (a) Budget Managers should be responsible only for income and expenditure that they can influence.
 - (b) There is a nominated Budget Manager for each cost centre heading.
 - (c) Budget Managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
 - (d) Budget Managers follow an approved certification process for all expenditure.
 - (e) Income and expenditure are properly recorded and accounted for.
 - (f) Performance levels/levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
 - (g) The gross expenditure budget position is monitored and controlled.
- 11.19 The Director of Resources shall establish an appropriate framework of budgetary control that ensures that:
- (a) Budgetary control is exercised within annual cash limits unless the full Council agrees otherwise.
 - (b) Each Director has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities.
 - (c) Expenditure is committed only against an approved budget head.
 - (d) All officers responsible for committing expenditure comply with relevant guidance and the Financial Procedure Rules.
 - (e) Each cost centre has a single named manager, determined by the relevant Director. As a general principle budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure.
 - (f) Significant variances from approved budgets are investigated and reported by budget managers regularly.
- 11.20 The Head of Financial Services shall provide financial management training courses that all budget managers must attend in order to obtain a 'licence to practice' as a Budget Manager in Herefordshire Council. Refresher training must also be undertaken every two years or the licence to practice shall be removed.

Virement

- 11.21 The Council operates a scheme of virement intended to enable budget holders to manage budgets with a degree of flexibility within the overall policy framework determined by the Council and therefore optimise the use of resources.
- 11.22 Directors have authority to vire expenditure between individual budget heads in accordance with the virement policy.
- 11.23 Key controls for the scheme of virement are:
- (a) That it is administered by the Director of Resources within guidelines set by Council. Any variation from this scheme requires the approval of Council.
 - (b) That the overall budget is agreed by Cabinet and approved by Council. Directors and budget holders are therefore authorised to incur expenditure in accordance with those estimates. The rules below cover virement, that is switching resources between budget heads. For the purposes of these Rules a budget head is considered to be a line in the Council's budget book which, as a minimum, is at an equivalent level to the standard service sub-division as defined by CIPFA. The scheme applies equally to a reduction in income as to an increase in expenditure.
- 11.24 All virements below £140,000 must be approved by the Head of Financial Services. All virements above £140,000 must be approved by the Director of Resources. All virements of above £140,000 shall be reported in the budget monitoring report provided to Cabinet.
- 11.25 The prior approval of the Cabinet is required to any virement of £25,000 or more where it is proposed to:
- (a) Vire between budgets of different portfolio Cabinet Members.
 - (b) Vire between budgets managed by different Corporate Directors.
- 11.26 Virement which is likely to impact on the level of service activity of another Director should be implemented only after consultation with the relevant Director.

12. FINANCIAL PLANNING

- 12.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 12.2 The Head of Financial Services shall prepare and review annually a three-year financial plan and strategy to provide an estimate of resources available to the Council and identify budget pressures.
- 12.3 Proposed budgets over periods of one year or longer shall be prepared by Directors, in consultation with the Director of Resources, for submission through the Cabinet to the Council.
- 12.4 Directors shall evaluate the financial implications of any new policy option, initiative or major project in conjunction with the Director of Resources and Head of Financial Services prior to a report to the Cabinet and/or Council.

13. BORROWING APPROVALS

- 13.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.

- 13.2 The Director of Resources shall report to Cabinet, on an annual basis, with recommendations to Council to determine the limits for the borrowing of monies.

14. EMERGENCIES

- 14.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 14.2 Nothing in these standing orders shall prevent expenditure required to meet immediate needs caused by a sudden emergency to which Section 138 of the Local Government Act 1972 applies, provided that such expenditure shall be reported as soon as possible to the appropriate Cabinet Member and the Cabinet.

15. BANKING ARRANGEMENTS & CORPORATE CREDIT CARDS

- 15.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 15.2 All arrangements with the Council's bank concerning the Council's bank accounts and for the ordering and issue of cheques shall be made by, or under arrangements approved by, the Director of Resources. The Director of Resources shall be authorised to open and operate such banking accounts, as he or she may consider necessary. This authority shall include the power to give the necessary directions to the bank as to signatures for withdrawals. The Director of Resources shall report periodically to the Cabinet or Audit & Corporate Governance Committee as to the opening or closing of such accounts.
- 15.3 All cheques and cheque stationery shall be ordered only on the authority of the Director of Resources who shall be satisfied that proper arrangements are in place for their safe custody. Where the signature is printed on the cheque by a Council system, the signature shall be that of the Director of Resources.
- 15.4 The Director of Resources shall be responsible for authorising the issue of corporate credit cards and determining spending limits. Cardholders are required to comply with the guidance issued by the Director of Resources regulating the use of corporate credit cards. This guidance will include the requirement for cardholders to provide the Payments Manager with a receipt and coding slip for each item purchased using a credit card within 14 days of the monthly card statement being received.

16. INSURANCE AND RISK MANAGEMENT

- 16.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services or the Risk & Insurance Manager.
- 16.2 All organisations, whether they are in the private or public sector, face risks to people, property and continued operations. Risk is defined as the chance or possibility of loss, damage or injury caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk.
- 16.3 Insurance has been the traditional means of protecting against loss, but this cannot be seen as the complete answer. By reducing or even preventing the incidence of losses (whether they result from crime or accident), the Council shall benefit from reduced costs of providing insurance cover and shall also avoid the disruption and wasted time caused by losses and insurance claims.
- 16.4 It is the overall responsibility of the Cabinet to approve the authority's Risk Management Strategy and to promote a culture of risk management awareness through the Council.

Monitoring of and reporting on the effectiveness of the Strategy is an essential part of the process.

- 16.5 The key controls for risk management and insurance are:
- (a) Robust systems are in place to identify, assess, prevent or contain significant operational risks on an integrated basis and these systems are promoted throughout the organisation.
 - (b) Acceptable levels of retained risk are identified and evaluated and arrangements are in place for their funding, either by internal provision or external insurance as appropriate.
 - (c) Managers know that they are responsible for managing relevant risks and are provided with appropriate and timely information on claims experience and risk management initiatives relating to their areas of responsibility.
 - (d) Procedures are in place to investigate and process claims within required timescales.
 - (e) A monitoring process is in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
- 16.6 The Director of Resources shall effect all insurance cover and negotiate all claims in consultation with the relevant Director and Head of Legal & Democratic Services where appropriate.
- 16.7 Directors shall give prompt notification to the Director of Resources of all new risks, properties, vehicles and other assets that are required to be insured or any alterations affecting existing insurances.
- 16.8 Directors shall promptly notify the Director of Resources in writing of any actual or potential loss, liability or damage or any event likely to lead to an insurance claim by or against the Council.
- 16.9 The Head of Financial Services shall oversee and ensure the preparation of the Council's Risk Management and promote the Strategy throughout the Authority.

17. LOANS, LEASING AND INVESTMENTS

- 17.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 17.2 The Director of Resources shall borrow as necessary to finance the approved capital programme and deal with all matters in connection with the raising or repayment of loans and is authorised to borrow for meeting expenses pending the receipt of revenues.
- 17.3 All investments and all borrowing shall be made in the name of the Council or the appropriate trust when the Council is acting as trustee and the security shall be lodged with the Director of Resources, Head of Legal & Democratic Services or the Council's banker as deemed most appropriate by the Director of Resources.
- 17.4 Directors shall not enter into financial leasing arrangements except with the consent of the Director of Resources.

- 17.5 The Director of Resources shall arrange the borrowing and investment activities of the Council in such a manner as to comply with the CIPFA Code of Practice on Treasury Management and the Authority's Treasury Policy Statement.
- 17.6 The Director of Resources shall prepare an Annual Treasury Strategy for the forthcoming financial year for approval by Council prior to the start of that financial year including the determination of statutory financing limits in accordance with Section 45 of the Local Government and Housing Act 1989 and report annually to Cabinet on the implementation and effectiveness of the Treasury Strategy.
- 17.7 The Council has the discretion to provide loan facilities to staff and members that help individuals fulfil their duties. These include car loan facilities, corporate loan facilities and bicycle loan facilities. From time to time government initiatives may bring forward other proposals that shall be investigated for suitability.
- 17.8 Each loan facility shall be supported by a written policy developed by the Head of Financial Services and agreed by Corporate Management Board. Variations to the facilities is delegated to the Head of Financial Services in consultation with the Director of Resources.

18. TRUST FUNDS

- 18.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services.
- 18.2 The Director of Resources shall:
- (a) Arrange for all trust funds to be held wherever possible in the name of the Authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Director of Resources unless the deed otherwise provides.
 - (b) Arrange where funds are held on behalf of third parties for their secure administration approved by the Director of Resources and to maintain written records of all transactions.
 - (c) Ensure that trust funds are operated within any relevant legislation and the specific requirement for each trust.

19. INVENTORIES AND STOCKS AND STORES

- 19.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Chief Internal Auditor.
- 19.2 The Director of Resources shall:
- (a) Advise on the form, layout and content of inventory records to be maintained by the Council.
 - (b) Advise on the arrangements for the care and custody of stocks and stores in Directorates.
- 19.3 Directors shall:
- (a) Maintain inventories in a form approved by the Director of Resources to adequately record and describe all furniture, fittings and equipment, plant and machinery under their control.

- (b) Carry out an annual check of all items on the inventory in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly.
- (c) Ensure attractive and portable items, such as computers, cameras and video recorders are identified with security markings as belonging to the Council and appropriately controlled and secured.
- (d) Make sure that property is only used in the course of the Council's business unless the Director concerned has given permission otherwise.
- (e) Directors have discretion to write off redundant equipment up to the value of £5,000, but must seek Cabinet Member approval for write-offs in excess of £5,000. Directors shall seek independent quotations where it is not immediately obvious what the market value of the redundant item is.
- (f) Make arrangements for the care, custody and recording of stocks and stores in Directorates.
- (g) Ensure that assets are identified, their location recorded and that they are appropriately marked and insured.
- (h) Ensure stocks are maintained at reasonable levels and subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.
- (i) Write-off discrepancies of up to £5,000 and seek advice from Internal Audit on discrepancies above this limit.
- (j) Authorise write-off and disposal of redundant stocks and equipment by competitive quotations or auction unless, following consultation with the Director of Resources, it is decided otherwise in a particular case.
- (k) Seek approval from the Director of Resources and Cabinet Member to the write-off of redundant stocks and stores valued in excess of £5,000.
- (l) Record the reasons for the chosen method of disposing of redundant stocks and equipment if not by competitive quotation or auction.

20. ORDERS FOR GOODS, WORKS AND SERVICES

- 20.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services or the Strategic Procurement Manager.
- 20.2 Orders shall not be issued for goods, work or services unless the cost is covered by an approved budget.
- 20.3 All orders given on behalf of the Council shall be in a written or electronic form approved by the Director of Resources. All orders are to be authorised by officers nominated by the appropriate Director who shall be responsible for official orders issued from his or her Directorate. Orders given verbally shall be confirmed by paper or electronic order as appropriate as soon as possible.
- 20.4 All works, goods or services supplied to the Council are to be subject to formal prior authorisation, in writing and/or electronic medium, as to need and budget cover. Written or electronic orders are to be issued for all work, goods or services to be supplied to the Council unless a written contract is required. An order or contract is not required for public

utility services, periodical payments such as rent or rates, for petty cash purchases or for such other expenditure as the Director of Resources may approve. All orders and contracts are to be managed in compliance with the Council's Contract Procedure Rules and Financial Procedure Rules.

- 20.5 Each order shall conform to the directions of the Council with respect to central purchasing and the standardisation of supplies and materials and with respect to Contract Procedure Rules.
- 20.6 Written orders shall be marked with invoice details when relevant accounts are passed for payment. When an electronic procurement system is in use an appropriate entry shall be made in that system when a payment is authorised.
- 20.7 The key controls for ordering and paying for work, goods and services are:
- (a) All works, goods and services are ordered only by appropriate persons and recorded.
 - (b) All works, goods and services shall be ordered in accordance with the Council's Procurement Strategy and Contract Procedure Rules unless they are purchased from internal sources within the Council.
 - (c) Works, goods and services received are checked to ensure they are in accordance with the order.
 - (d) Payments are authorised by officers who can certify that goods have been received to price, quantity and quality.
 - (e) All payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
 - (f) All appropriate payment documents are retained and stored for the defined period in accordance with the Council's 'Guidelines on the Destruction of Financial Records'.
 - (g) All expenditure including VAT, is accurately recorded against the right budget and any exceptions corrected.
 - (h) That processes are in place to maintain the security and integrity of data for transacting business electronically.

21. WORKING FOR THIRD PARTIES

- 21.1 Further advice on this section of the Council's Financial Procedure Rules can be obtained from the Head of Financial Services and Head of Legal & Democratic Services.

General

- 21.2 Current legislation enables the Council to provide a range of services to certain other bodies. Such work may enable the unit to maintain economies of scale and existing expertise. Arrangements must be in place to ensure that any risk associated with this work is minimised.
- 21.3 All proposals to work for a third party shall be properly costed in accordance with guidance provided by the Director of Resources.
- 21.4 All decisions to work for a third party shall be made in accordance with the Council's formal decision making processes as set out in the Scheme of Delegation.

21.5 All contracts for providing work for a third party shall be drawn up using guidance provided by the Head of Legal & Democratic Services.

Responsibilities of Directors, Heads of Service and Officers

21.6 Officers shall ensure that:

- (a) Legal advice is obtained from the Head of Legal & Democratic Services on the implications of providing the proposed service to the proposed third party.
- (b) Financial advice is obtained from the Head of Financial Services on the cost of providing the service.
- (c) Formal approval in line with the Council's Scheme of Delegation is obtained before any negotiations to work for third parties are concluded.
- (d) A register of all contracts entered into with third parties is maintained in accordance with procedures specified by the Head of Legal & Democratic Services.
- (e) Appropriate identity checks on the third party are carried out in accordance with the Council's anti money laundering policy and guidance.
- (f) Appropriate insurance arrangements are in place for the third party work.
- (g) The Council is not put at any risk of bad debts as a result of any third party work (see 21.2 above).
- (h) The Council is not subsidising any contracts for the provision of third party work.
- (i) Wherever possible, payment is received in advance of the delivery of the service under a third party contract.
- (j) The Directorate has the appropriate expertise to undertake the contract.
- (k) The contract does not adversely impact on the services provided for the Council.
- (l) All contracts are properly documented.
- (m) The Director of Resources is provided with the information he/she needs to make an appropriate note to the annual statement of accounts in respect of the Council's work for third parties.

CONTRACT PROCEDURE RULES

1. INTRODUCTION

- 1.1 The primary objective of the Council's Contract Procedure Rules is to ensure that all contracts for works, goods and services are entered into in a manner that secures value for money and is demonstrably free from impropriety.
- 1.2. The Council's Contract Procedure Rules also ensure that:
- a) Contract selection and award procedures are conducted fairly, in a properly regularised manner and in accordance with relevant legal requirements.
 - b) Strategic service delivery and supply partners are used wherever possible to ensure value for money is obtained and the cost to procure is minimised.
 - c) Local firms are employed whenever they offer as good value for money as other firms and their selection is in accordance with the Council's legal obligations, for example in relation to European procurement rules.
 - d) The Council's strategic policies are taken into account, for example in promoting the economic development of Herefordshire and in relation to protecting the environment.
 - e) Alternative methods of procurement compatible with the objectives of the Contract Procedure Rules have been considered.
 - f) Procurement procedures are kept under review in order to ensure continuous improvements to services and provide Best Value to the community of Herefordshire.
 - g) Procurement of ICT equipment is achieved using the Council's on-line procurement system.
- 1.3 The Director of Resources has overall responsibility for the preparation of the Council's Contract Procedure Rules. The Head of Financial Services has delegated responsibility for implementing the Council's Contract Procedure Rules. The Strategic Procurement Manager assists the Head of Financial Services in this task.
- 1.4 The Head of Financial Services and Strategic Procurement Manager work very closely with the Head of Legal & Democratic Services due to the significant legal issues involved in contracting and procurement activity.
- 1.5 It should be noted that the Council's Contract Procedure Rules should be read in conjunction with the Council's Standing Orders, Scheme of Delegation, Budget & Policy Framework Rules and Financial Procedure Rules.
- 1.6 **It should also be noted that failure to observe the Council's Contract Procedure Rules could lead to disciplinary action.**
- 1.7 Please note that all financial limits outlined in this document exclude Value Added Tax (VAT).

2. STANDARDS OF CONDUCT

2.1 Declarations of Interest

2.1.1 Members and officers must ensure that they comply with the provisions of Standing Order 2.8 (Members) on the declaration of interests and Appendix 14 of the Constitution (officers) regarding the declaration of interests.

2.2 Gifts and Hospitality

2.2.1 Any offer of gift, favour or hospitality made by any person or firm doing or seeking to do business with the Council must be treated with extreme caution.

2.2.2 Any such offers must be noted on the appropriate form and reported to the Head of Legal & Democratic Services who shall maintain and make available to the Council's internal and external auditors a register of such matters.

2.2.3 Acceptance of gifts and hospitality must be in accordance with the Council's policies on such matters.

2.3 Honesty

2.3.1 All Members must follow the Members' Code of Conduct.

2.3.2 All employees must follow the Employee Code of Conduct (as set out in the Council's Employee Induction Handbook and available from Human Resources).

2.3.3 All officers must make sure that employees involved in an in-house tender for a contract do not take part in the preparation of tender documentation or the decision on the award of such a contract.

3. OFFICER RESPONSIBILITIES

3.1 Chief Executive's Responsibilities

3.1.1 The Chief Executive is responsible for resolving issues concerning the operation of the Council's Contract Procedure Rules seeking advice as necessary from the Director of Resources **and** the Head of Legal & Democratic Services.

3.2 Directors' Responsibilities

3.2.1 All Directors are responsible for:

- a) Monitoring compliance with the Council's Contract Procedure Rules in relation to contracts funded by their Directorate budget.
- b) Appointing Contract Monitoring Officers (see 3.4 below) and ensuring they support them in their role and obtain regular briefings from them.
- c) Appointing a senior member of staff to the Corporate Procurement Group (see 3.5 below).

- d) Establishing, maintaining and utilising Approved Contractors Registers for their Directorate in accordance with section 4 of the Council's Contract Procedure Rules.
- e) Bringing the provisions of the Council's Contract Procedure Rules to the attention of their staff.
- f) Ensuring that the contracts within their Directorate are legal, comply with Contract Procedure Rules and Financial Procedure Rules and protect the Council's interests fully.
- g) Ensuring that the Council's Criminal Records Bureau policies and procedures are followed.

3.2.2 The Director of Resources has overall responsibility for the preparation and review of the Council's Contract Procedure Rules but must do so in agreement with the Head of Legal & Democratic Services.

3.3 Head of Service Responsibilities

3.3.1 The Head of Legal & Democratic Services is responsible for:

- a) Providing legal advice and guidance to Members and officers on the operation of the Council's Contract Procedure Rules and all contracting and procurement activity.
- b) Working with the Director of Resources on the preparation and review of the Contract Procedure Rules.
- c) Assisting the Chief Executive with the resolution of questions regarding the interpretation of the Council's Contract Procedure Rules.
- d) Advising on the preparation of contract documentation.
- e) Maintaining a central Procedures Exemption Register.
- f) Informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the Council.

3.3.2 The Head of Financial Services is responsible for providing the professional lead on all the non-legal aspects of contracting and procurement relating to works, goods and services. The Head of Financial Services is also responsible for supervising the Corporate Procurement Group's activities (see 3.5 below) and maintaining a Contracts Register.

3.3.3 All Heads of Service are responsible for providing the Head of Financial Services with the information s/he requires to maintain a Contracts Register. This will include all contracts for purchases in total valued £10,001 and above and the name of the Contract Monitoring Officer or responsible officer.

3.4 Contract Monitoring Officers' Responsibilities

3.4.1 Directors shall appoint one or more Contract Monitoring Officer(s) to take responsibility for contracts with an estimated total value (excluding VAT) in excess of £10,001. Directors shall nominate a Contract Monitoring Officer for each contract and nominate one of their Contract Monitoring Officers to be responsible for the overall reporting and maintenance of contract records within the Directorate. A responsible officer shall be appointed for all contracts below £10,000.

- 3.4.2 Contract Monitoring Officers are responsible for liaising fully with Financial Services and Legal Services on all matters relating to contracting and procurement.
- 3.4.3 Contract Monitoring Officers are responsible for agreeing exemptions from the formal tendering procedures with the Head of Financial Services or the Strategic Procurement Manager **and** the Head of Legal & Democratic Services. All exemptions are to be approved in writing and reported in line with the requirements of Section 10 of the Council's Contract Procedure Rules.
- 3.4.4 Contract Monitoring Officers are responsible for liaising with officers administering contracts regarding any reports concerning failures by contractors to comply with contractual obligations or otherwise satisfactorily complete work.
- 3.4.5 Contract Monitoring Officers are responsible for posting any information they receive concerning the suitability of a contractor to carry out work for the Council on the Contracts Watch sub-folder of the Procurement/Contract Management public folder on the Council's Intranet. The message should advise any officer who has employed or is considering employing the contractor to contact the Head of Legal & Democratic Services for further information as the message should not state the reason for concern. The Contract Monitoring Officer should inform the Head of Legal & Democratic Services in writing of the reasons for the alert.
- 3.4.6 Contract Monitoring Officers are responsible for emailing copies of their Approved Contractor Registers to the central Approved Contractor Register sub-folder of the Procurement/Contract Management public folder on the Council's Intranet. They are responsible for keeping their Approved Contractor Registers updated with any additions, suspensions or removals (section 4 of the Council's Contract Procedure Rules refers). A hard copy shall be provided to the Strategic Procurement Manager.
- 3.4.7 Contract Monitoring Officers are responsible for emailing copies of their Suspended and Removed Contractors Lists to the central Suspended and Removed Contractors List sub-folder of the Procurement/Contract Management public folder on the Council's Intranet. A hard copy shall be provided to the Strategic Procurement Manager.
- 3.4.8 Contract Monitoring Officers are responsible for maintaining records of the:
- a) Contractors included in their Approved Contractor Registers.
 - b) Contracts awarded including the nature and value of contracts and the names of successful tenderers.
 - c) Total value of contracts awarded to each successful tenderer during each financial year.
 - d) Names of unsuccessful tenderers and reasons why their tenders were not accepted if the reason is other than price.
 - e) Details of any failure by a tenderer to comply with instructions to tenderers.
 - f) Details of the reasons for any tenders being withdrawn.
 - g) Details of failures by contractors to submit tenders after having requested and been invited to do so.

- h) Contractors' performance.
- i) Reasons for opening late tenders (see section 5 of the Council's Contract Procedure Rules).
- j) Reasons for exceptions to tendering procedures (see section 10 of the Council's Contract Procedure Rules).

3.4.9 The lead Contract Monitoring Officer appointed by the Director is responsible for keeping their Director briefed on contract and procurement issues within the Directorate.

3.5 Strategic Procurement Manager's Responsibilities

3.5.1 Working to the Head of Financial Services, the Strategic Procurement Manager is responsible for providing advice on all aspects of the Council's Contract Procedure Rules save for the legal issues. The responsibility for the legal aspects of the Council's Contract Procedure Rules rests with the Head of Legal & Democratic Services.

3.5.2 The Strategic Procurement Manager is responsible for chairing the Council's Corporate Procurement Group. Each Director shall appoint a senior officer to be a member of the Corporate Procurement Group and the membership shall include the Head of Legal & Democratic Services or their nominated representative.

3.5.3 The Council's Corporate Procurement Group will meet at least quarterly in order to fulfil the following responsibilities:

- a) Continually reviewing the Council's Procurement Strategy and making recommendations on appropriate enhancements to the Head of Financial Services to take forward in consultation with the Head of Legal & Democratic Services for approval in line with the Council's arrangements for decision making as set out in the Constitution.
- b) Maintaining a register of current contracts.
- c) Monitoring compliance with the Council's Contract Procedure Rules and reporting non-compliance to the Head of Financial Services and Head of Legal & Democratic Services for appropriate action.
- d) Preparing an annual report on the operation of and compliance with the Council's Contract Procedure Rules as a basis for the Head of Financial Services, in consultation with the Head of Legal & Democratic Services, to report to the Audit & Corporate Governance Committee.
- e) Continually reviewing the Council's Contract Procedure Rules to ensure they keep pace with developing best practice and advising amendments as necessary.
- f) Prescribing the information needed from Contract Monitoring Officers and maintaining a central record of the information notified by Contract Monitoring Officers.
- g) Reviewing the Contract Procedure Rules Exemption Register and preparing an annual report on the exemptions recorded for the Head of Legal & Democratic Services.
- h) Providing training and support for employees involved in procurement activities.

3.6 Responsibilities of all Officers

3.6.1 All officers are responsible for:

- a) Following the Council's Contract Procedure Rules and any codes of practice, guidance or instructions provided by the Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services.
- b) Following all relevant English and European procurement laws.
- c) Seeking advice from the Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services in the case of any uncertainty.
- d) Ensuring that any departure from these Contract Procedure Rules is agreed with the Head of Financial Services or Strategic Procurement Manager **and** the Head of Legal & Democratic Services.
- e) Following the Council's Employee Code of Conduct (a copy is included in the Employee Induction Handbook and can be obtained from Human Resources).
- f) Following the Council's Financial Procedure Rules and the systems and procedures that are in place to control budgets properly.
- g) Declaring any interest that could influence their judgement in contracting matters to their Director and the Head of Legal & Democratic Services.
- h) Not taking part in **any** decisions relating to the procurement of work, goods or services if they are part of a formal in-house bid for that work.
- i) Reporting any suspected fraudulent, corrupt or other irregularity to the Chief Internal Auditor.
- j) Ensuring that value for money is evidenced through the procurement process.

4. APPROVED CONTRACTOR REGISTERS

4.1 Introduction

- 4.1.1 Approved Contractor Registers are very useful for some types of works, goods or services contracts and can be an efficient way of identifying suppliers.
- 4.1.2 **Contractors on an Approved Contractor Register must not be approached either formally or informally until after publication of the appropriate European contract notice for contracts governed by the European procurement rules.**
- 4.1.3 If an Approved Contractor Register exists and it is appropriate to use it then the register should be used.
- 4.1.4 If an Approved Contractor Register is to be used, a method for selecting the suppliers on it that will be invited to tender must be determined. The method chosen must ensure that all the

suppliers on the relevant Approved Contractor Register have the same opportunity over time to tender for work (subject to suitability for particular work and financial limits under 4.2.6).

- 4.1.5 Officers may use Government-backed Approved Contractor Registers or other registers approved by the Corporate Procurement Group to select those to be invited to bid for a contract.

4.2 Managing an Approved Contractor Register

- 4.2.1 Contract Monitoring Officers must advertise and invite applications from potential suppliers to be added to an Approved Contractor Register for any given type of contract for works, goods or services.

- 4.2.2 Advertisements inviting applications from potential suppliers to be included in an Approved Contractor Register should be placed in the relevant local and trade press and, if necessary, the EC Journal.

- 4.2.3 The information needed from potential suppliers in order to assess whether they are suitable for inclusion on an Approved Contractor Register should be gathered using the same method for all suppliers seeking inclusion on the Register.

- 4.2.4 When considering whether to include a contractor on an Approved Contractor Register, officers must look at each contractor's:

- a) Past performance on similar contracts (quality and costs).
- b) Technical capacity.
- c) Specialist experience in the type of products and services being procured.
- d) Financial situation.
- e) Public and employer's liability insurance arrangements.
- f) Health & safety arrangements.
- g) Equalities policy.
- h) Written references on the contractor's reputation.

- 4.2.5 Officers may add other criteria to help them select suppliers for inclusion on an Approved Contractor Register providing the additional criteria are relevant, do not prevent fair competition and do not illegally discriminate between suppliers. The Contract Monitoring Officer must establish the minimum standard required for each criterion before inviting applications for inclusion on the Approved Contractor Register.

- 4.2.6 An Approved Contractor Register must state the value of work that can be placed with each supplier at any one time.

- 4.2.7 An Approved Contractor Register should normally contain at least five suppliers. Advice and guidance must be sought from the Head of Financial Services/Strategic Procurement Manager where fewer than five suppliers qualify for inclusion as this might indicate that an Approved Contractor Register is not the most suitable route for the works, goods or services in question.

- 4.2.8 Officers must review their Approved Contractor Registers at least every two years using the criteria set out in 4.2.4 and 4.2.5 to assess whether a supplier should remain on the Register. The review should also consider whether the value of work that can be placed with each supplier at any one time should be revised.
- 4.2.9 Officers should consider suspending or removing suppliers from an Approved Contractor Register as a result of such a review or at other times if there are grounds to do so such as poor performance, disputes or poor financial standing. See 4.3 below for guidance on how to suspend or remove a supplier from an Approved Contractor Register.
- 4.2.10 Officers must advertise to compile subsequent Approved Contractor Registers at least every five years or earlier if fewer than five suppliers remain on the Register.
- 4.2.11 All contracts let using an Approved Contractor Register must comply with the Council's Contract Procedure Rules in every respect. The Head of Financial Services or Strategic Procurement Manager or Head of Legal & Democratic Services are able to advise on any aspect of the Council's Contract Procedure Rules.

4.3 Suspending or Removing a Supplier from an Approved Contractor Register

- 4.3.1 If an officer receives a materially adverse report concerning a contractor's performance or compliance with tendering procedures that suggests they should no longer be on an Approved Contractor Register, the officer must seek advice from the Head of Financial Services or Strategic Procurement Manager who will, in consultation with the Head of Legal & Democratic Services, advise what further action is necessary.
- 4.3.2 If the Head of Financial Services or Strategic Procurement Manager determines after consultation with the Head of Legal & Democratic Services that the supplier should be suspended or removed from an Approved Contractor Register, the officer shall follow this advice and amend the Register accordingly. The officer shall also include the contractor in a List of Suspended and Removed Contractors and notify the contractor accordingly.
- 4.3.3 An officer must seek approval as outlined in 4.3.1 and 4.3.2 to lift a suspension on a supplier or re-admit a supplier to an Approved Contractor Register.
- 4.3.4 If an officer concludes as a result of a routine review of an Approved Contractor Register that a supplier should be removed from that Register, then they must seek advice as outlined in 4.3.1 and 4.3.2.

5. FORMAL QUOTATION AND TENDERING PROCEDURES

5.1 Introduction

- 5.1.1 West Mercia Supplies (WMS) must be used for all purchases of office supplies and consumables, furniture, photocopiers, janitorial supplies and personal protective equipment.
- 5.1.2 Proposals to use an alternative supplier for such goods must be approved prior to an order being placed using a form prepared by the Strategic Procurement and Efficiency Review Manager.
- 5.1.3 Requests to use an alternative supplier to WMS will be approved or otherwise by the Head of Financial Services.

- 5.1.4 Failure to comply with the Council's policy on the use of WMS will lead to a corresponding budget reduction equivalent to the total price of the supply.
- 5.1.5 Officers must also use Council approved strategic service delivery partners if the work required is within the scope of the Council's strategic service delivery contracts.
- 5.1.6 Procurement of ICT equipment must be achieved using the Council's online procurement system.
- 5.1.7 The following procedures must be followed for all other types of procurement:
- a) **Purchases in total valued up to £1,000** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the Council's Contract Procedure Rules have been followed.
 - b) **Purchases in total valued between £1,001 and £10,000** – two formal quotations must be obtained (see 5.2 below).
 - c) **Purchases in total valued between £10,001 and £50,000** – three formal quotations must be obtained (see 5.2 below).
 - d) **Purchases in total valued between £50,001 and up to relevant EU limit (£140,000)** – formal tendering arrangements must be followed (see 5.3 below).
 - e) **Purchases in total valued in excess of relevant EU limit (£140,001)** – European procurement rules must be followed (see section 6 of the Council's Contract Procedure Rules).
- 5.1.8 It is important to respect confidentiality in quotation and tendering processes. Officers must not therefore disclose any information they have about potential suppliers to other persons/suppliers potentially competing for the same contract.
- 5.1.9 Official orders should be raised for works, goods and services in line with the Council's Financial Procedure Rules.

5.2 Formal Quotation Procedure

- 5.2.1 The requisite number of formal quotations must be obtained for all purchases (other than those with WMS or within the scope of a strategic service delivery contract) where between £1,001 and £10,000 in total (see 5.1.7).
- 5.2.2 A quotation is a written estimate of the cost to execute works or supply goods, materials or services.
- 5.2.3 Officers must produce a description of the goods or specification of the services required before seeking quotations. This will enable a fair comparison of prices. The level of detail in the description or specification will depend on the value and type of goods or services being purchased. Advice can be obtained from the Strategic Procurement Manager
- 5.2.4 Formal quotations should contain as a minimum the following information:
- a) Date and reference number.

- b) Supplier company details.
- c) Council officer/department name.
- d) Item/part number.
- e) Description specification.
- f) Quantity required.
- g) Unit/service cost.
- h) Total cost.
- i) Delivery information.
- j) Payment details.
- k) Any special requirements.
- l) Details of any discounts/rebates.

5.2.5 An appropriate Approved Contractor Register should be used if available to select the suppliers that will be asked to provide a quotation.

5.2.6 Every person or firm who makes a quotation must be treated fairly. Selection of the preferred supplier from the quotations received must be done in accordance with the principles set out in the formal tendering procedures (5.3 refers).

5.2.7 Any departures from the formal quotation procedures must be discussed with the Head of Financial Services or Strategic Procurement Manager who will agree or otherwise any exception in consultation with the Head of Legal & Democratic Services. A record must be kept of the reasons for and approval given for departing from the formal quotation procedure.

5.2.8 Formal quotations for contracts up to £50,000 should be kept for a minimum of two years after the contract has been awarded.

5.3 Formal Tendering Procedure

Introduction

5.3.1 Formal tendering procedures apply to all contracts with a total value between £50,001 and the prevailing European procurement limit for supplies and services (currently £140,000) except for those with WMS or a Council approved strategic service delivery contract. To ensure that European procurement rules are properly applied, Contract Monitoring Officers should liaise with the Strategic Procurement Manager for all contracts with an estimated value in excess of £50,000.

5.3.2 It is important to respect confidentiality during all stages of the formal tendering process. Officers must not therefore disclose any information they have about potential suppliers to others persons/suppliers potentially competing for the same contract.

5.3.3 Advice and guidance on how to describe the works, goods or services required for formal tendering purposes can be obtained from the Strategic Procurement Manager.

Selecting Potential Tenderers

5.3.4 An Approved Contractor Register should be used wherever possible for selecting potential tenderers for a contract. Officers must record the names of the persons/suppliers invited to tender from an Approved Contractor Register.

5.3.5 If an Approved Contractor Register does not exist or is unsuitable for selecting potential tenderers, officers will either need to advertise for potential tenderers or approach selected ones in cases where specialist works, goods or services are required.

5.3.6 If an Approved Contract Register is available but considered unsuitable for a specific contract, the Contract Monitoring Officer should discuss the reason with the Head of Financial Services or Strategic Procurement Manager. The Head of Financial Services or Strategic Procurement Manager should then consult with the Head of Legal & Democratic Services. The Director and Contract Monitoring Officer shall be informed of the decision of the Head of Financial Services or Strategic Procurement Manager and Head of Legal & Democratic Services.

5.3.7 Officers must also seek guidance as outlined in 5.3.6 above if they propose to approach selected persons or firms as potential tenderers.

5.3.8 Contract Monitoring Officers must keep a written record of the reasons for departing from the usual practice of selecting potential tenderers from an existing Approved Contractor Register and the approval given. They must also record the reasons for approaching selected tenderers and the approval given.

5.3.9 Advertisements for potential tenderers may be placed in relevant trade or professional journals, local and national newspapers, the Council's website and the EC Journal.

5.3.10 The method for collecting the information needed from potential suppliers to assess whether to invite them to submit a formal tender and the method of assessment must be agreed before the selection process begins.

5.3.11 A standard business questionnaire may be used to collect information from the potential suppliers but the same questionnaire must be used for all potential suppliers. Alternatively, information may be gathered by inviting potential suppliers to express an interest in writing covering the specifics identified by the officer in the advertisement or letter of invitation. Further advice can be obtained from the Strategic Procurement Manager.

5.3.12 The method for selecting tenderers must:

- a) Treat all tenderers in the same way.
- b) Keep the process clear and simple.
- c) Record all the selection decisions.

5.3.13 Officers must consider the following when selecting suppliers to be invited to tender for a particular contract:

- a) Past performance on similar contracts (quality and costs).

- b) Technical capacity.
- c) Specialist experience in the type of products and services being procured.
- d) Financial situation.
- e) Public and employer's liability insurance arrangements.
- f) Health & safety arrangements.
- g) Equalities policy.
- h) Written references on the contractors' reputation.
- i) Environmental policies.

5.3.14 Officers may also use information from referees and from company searches to assess which persons or firms to invite to submit a tender.

5.3.15 At least three suitable suppliers should be invited to tender. If there are only three suitable suppliers (e.g. due to the number of suppliers responding to an advertisement) they must all be invited to tender.

5.3.16 If there are only one or two suppliers indicating they wish to be considered then an exemption from the Contract Procedure Rules **must** be sought from the Head of Financial Services or Strategic Procurement Manager and Head of Legal & Democratic Services and their approval given before proceeding. The names or details of suppliers must not be passed on to anyone at any time during the tendering process.

Inviting Tenders

5.3.17 Each potential supplier should be sent an invitation to tender, the contract documents, a tender form and a return label bearing the name of the contract and the word 'Tender' together with instructions on when and how the tenders should be returned. They must be instructed to return their tender in a plain envelope addressed to the Head of Legal & Democratic Services. There should be no marks or writing on the envelope, other than the address and the return label. Tenderers must be advised not to use a franking machine if they propose posting their tender.

5.3.18 A copy the Council's standard contract terms should also be included so that the tenderer is aware of the terms and conditions that will form part of the final contract. When an industry standard contract is used advice should be sought from the Head of Legal & Democratic Services on which of the standard clauses to incorporate.

5.3.19 Tenderers must be told that tenders sent by fax or e-mail will not be accepted.

5.3.20 Tenders can be returned by hand or by post to the Head of Legal & Democratic Services, Brockington, 35 Hafod Road, Hereford, HR1 1SH. Tenderers should be advised to use postal services that provide them with proof of postage and the time of sending.

5.3.21 Tenderers should be advised that tenders will be opened at the same time and no advantage is secured by seeking to delay submission until the last moment.

- 5.3.22 The invitation to tender **must** state that the Council does not bind itself to accepting the lowest or any tender.
- 5.3.23 The invitation to tender needs to explain how the Council will deal with any mistakes it identifies in the tender documentation submitted (see Assessing Tenders below).
- 5.3.24 The invitation to tender **must** set out the criteria that will be used to select the preferred supplier. The assessment criteria must not prevent fair competition or discriminate between tenderers in any way. They must also comply with relevant legislation.
- 5.3.25 The tender assessment criteria should include:
- a) Price.
 - b) Technical standard.
 - c) Experience and skills.
 - d) Financial proposals.
 - e) Financial standing.
 - f) Contract management arrangements.
 - g) Quality management proposals.
 - h) Delivery proposals.
 - i) Employment practices.
 - j) Environmental considerations.
 - k) Diversity issues.
- 5.3.26 If an officer wants to know whether the supplier has received an invitation to tender, they must enclose a 'Tender Received Confirmation Form' with the invitation to tender documentation. They must not contact the potential supplier to check they have received the documentation.
- 5.3.27 During the period allowed for preparing tenders, all communications with tenderers must be recorded. All communications should go through the Contract Monitoring Officer who can obtain the information requested from others if necessary. If a tenderer raises a query during this period, it must be passed on to all other tenderers, together with the reply. The identity of the tenderer who has raised the query **must not** be revealed.

Receiving Tenders

- 5.3.28 The original tender return date should be fixed and unchanged except in appropriate and necessary circumstances. Any extension should not provide either advantage or disadvantage to any of the tenderers. Any proposal to extend the closing date must be agreed by the Head of Legal & Democratic Services.
- 5.3.29 Should it be necessary to extend the time limit for the submission of tenders all potential tenderers should be informed of the new date in good time before the original submission date.

APPENDIX 5

- 5.3.30 Tenders should be recorded in a register that shows the time, date and name of the contract as they are received. Tenders delivered by hand should be acknowledged with a written receipt and the time, date and name of the contract similarly recorded in the register. All tender envelopes must be date stamped on receipt with the time of receipt written on the envelope and countersigned by the receiving officer.
- 5.3.31 Tenders must not be opened until the final deadline for receiving them. Tenders must be stored securely until it is time for them to be opened. The storage used should be locked and access to it available only to those officers in Legal & Democratic Services responsible for handling tenders and they must ensure that keys are secure at all times.
- 5.3.32 A Legal & Democratic Services officer shall be responsible for opening the tenders for a contract in the company of the Contract Monitoring Officer and the Strategic Procurement Manager or his/her representative. The Legal & Democratic Services officer must ensure the number of tender envelopes to be opened tallies with the number recorded in the tender register and shall sign the register to indicate that this is the case.
- 5.3.33 If a tender is opened by mistake before the deadline, a record of how this has happened should be attached to the packaging. The tender should be re-sealed immediately and its contents kept confidential.
- 5.3.34 If fewer tenders are received than expected, do not contact tenderers to ask whether they have sent one in.
- 5.3.35 In exceptional circumstances, Legal & Democratic Services, in consultation with the Head of Legal & Democratic Services, can accept a late tender (see below).

Opening & Recording Tenders

- 5.3.36 The Head of Legal & Democratic Services must make sure that the procedures for opening tenders are followed and that the correct records and documents are completed.
- 5.3.37 All tenders relating to a contract must be opened at the same session and opened one at a time. Each officer present must sign, date and write on the tender form the time that the tender was opened.
- 5.3.38 The key documents submitted by each tenderer must be recorded on a tender return form along with value. Each officer must check, sign and date the form.
- 5.3.39 The Contract Monitoring Officer must sign each page of the tender document unless it is very long. In this case, they may only sign the pages that include pricing information.
- 5.3.40 Once the tenders have been opened, they should be held in a secure place by the Contract Monitoring Officer.

Late Tenders

- 5.3.41 The Head of Legal & Democratic Services must reject tenders that are received after the deadline unless none of the tenders submitted on time have been opened or there is proof that the tender was posted in enough time to meet the deadline (for example, the postmark date is the day before the deadline for a first class delivery or is three days before the deadline for a second class delivery).

5.3.42 If the Head of Legal & Democratic Services decides to accept a late tender, they must treat that tender in the same way as all other tenders. The full details of the decision to accept the late tender must be recorded.

5.3.43 If the late tender is rejected, it should be returned unopened to the tenderer and a record of posting kept on file for two years. The tenderer should be informed in writing of the date and time the tender was received.

Assessing Tenders

5.3.44 The Contract Monitoring Officer will ensure the tenders are assessed in accordance with the advice provided by the Head of Financial Services or Strategic Procurement Manager.

5.3.45 Before assessing the tenders, the Contract Monitoring Officer needs to check that each part of them meets the requirements of the specification. The responsible officer also needs to make sure that there are no mistakes and that nothing is missing

5.3.46 If there are substantial omissions of data or documentation that make it impossible to assess the tender, this should be fully recorded and the tender rejected.

5.3.47 The accuracy of the figures in each tender must be checked. If mistakes are found that do not affect the overall price of the goods or services, the tenderer must be contacted and asked to confirm the correct figures in writing.

5.3.48 A record of all mistakes must be kept and attached to the tender documents together with any corrections agreed with the tenderer.

5.3.49 The correct tenders can then be assessed in accordance with the assessment criteria that have previously been agreed in accordance with these formal tendering procedures.

5.3.50 The assessment criteria used for the tender evaluation must be the same in all respects as the criteria advised to prospective suppliers at the beginning of the process.

5.3.51 Assessment details are strictly confidential and must not be passed on to anyone else. During the course of the assessment, tender documentation must be kept secure and confidentiality preserved. If, in a major tendering exercise, the documentation is going to be copied or divided to aid the assessment process, a record should be maintained to identify to whom such documents have been issued and the date returned.

5.3.52 The Contract Monitoring Officer shall retain a complete set of documents in a secure place in case any parts of the documentation go missing.

5.3.53 Once the assessment has been completed the responsible officer should produce a report showing:

- a) The result of the assessment of each tender.
- b) A comparison of assessment results.
- c) The recommendation on which tenderer should be offered the contract.

Accepting and Rejecting Tenders

5.3.54 The Contract Monitoring Officer should accept the tender that is:

a) The lowest tender that meets the evaluation criteria.

Or

b) The tender that will be of most economic benefit to the Council. Where this is not the lowest tender, the Contract Monitoring Officer should explain in writing giving objective reasons why that tender is preferred and seek approval from the Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services to proceed to appoint. A note should be placed on file to show that the Head of Financial Services or Strategic Procurement Manager and Head of Legal & Democratic Services has reviewed the evaluation process and agreed with the outcome.

5.3.55 The Contract Monitoring Officer should always consider whether their recommendation for awarding the contract should be put before a Cabinet Member, the Cabinet or Council for formal approval **before** contacting the successful tenderer. The Scheme of Delegation (Part 12 of the Constitution) sets out the Council's procedures for making decisions. If in doubt, seek advice and approval from the Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services. Tenderers should be told at the outset if Cabinet or Council approval will be needed.

5.3.56 The officer should write to inform the successful tenderers of the decision as soon as possible **after all necessary approvals have been received**.

5.3.57 Care should be taken when issuing letters informing the tenderer that they have been successful as an unqualified acceptance of the tender may create a binding contract before the formal documentation has been completed and signed by the appropriate authorised signatories.

5.3.58 Unsuccessful tenderers should be informed after the successful tenderer has been told. If unsuccessful tenderers ask why their tender was not successful then general feedback should be given on the areas of their tender that scored poorly. The Contract Monitoring Officer should not become involved in detailed arguments or discussions in order to justify their decision. If the tenderer requires more detailed information the officer should advise them to put their request in writing and seek appropriate advice before responding in writing.

Negotiating

5.3.59 The Contract Monitoring Officer must comply with the following conditions when negotiating on price with tenderers:

a) Guidance must be sought from the Head of Financial Services or Strategic Procurement Manager who will consult with the Head of Legal & Democratic Services as appropriate before advising on the appropriate course of action.

b) The Contract Monitoring Officer must be accompanied by another officer during negotiations with tenderers and a full written record of all discussions should be made and signed by both officers. The results of the negotiation process must be shared with the Head of Financial Services or Strategic Procurement Manager.

c) All negotiations must be carried out at the Council's offices.

d) Officers must not discuss one tenderer's detailed prices, conditions or terms with another tenderer.

- e) Officers must respect the confidentiality of information provided by tenderers.
- f) If negotiations lead to a material change in the description of the work, goods or services or other terms, the officer must invite everyone who has provided a tender to re-tender on the basis of the revised contract. If this is the case, the whole process should start again.

5.3.60 If there is an in-house tender for a contract, negotiations must not take place without permission from the Head of Financial Services or Strategic Procurement Manager as outlined in 5.3.59 a) above.

Awarding a Contract

5.3.61 Before awarding any contract, the Contract Monitoring Officer must first obtain the approval of their Director or their authorised representative with confirmation of:

- a) The competency of the proposed contractor and the adequacy of any necessary insurance.
- b) The prices quoted by the proposed contractor.
- c) The consistency of the proposed action with the objectives and requirements of the Council's Contract Procedure Rules.
- d) The financial stability of the proposed contractor.
- e) A satisfactory credit check if the Council has not dealt with that contractor for more than two years for contracts in excess of £50,000. A credit check should be carried out on all short listed tenderers for contracts in excess of the European procurement limit for supplies and services (currently £140,000). Advice on credit checks should be sought from Audit Services.

5.3.62 Once this approval has been granted, the officer needs to complete the contractual arrangements. The documents should clearly set out the name of the supplier, what the contract is for, and the terms and conditions of the contract. They should also show that there is suitable insurance to protect the Council's interests. Advice on insurance matters is available from the Council's Insurance and Risk Manager. Where an official order is used and where it makes reference to the Council's General Terms and Conditions for Services, Supplies and Works those terms will apply to the contract. If in any doubt with the contract documentation, advice should be sought from the Head of Legal & Democratic Services.

5.3.63 All contracts must be signed by the Head of Legal & Democratic Services. The Head of Legal & Democratic Services will only sign contracts if the Director has given written authority for him to do so and written assurance that the Council's Contract Procedure Rules have been complied with in all respects. A Director must also sign all contracts where European procurement rules apply.

5.3.64 Officers are responsible for seeking advice from Legal & Democratic Services if they are not clear about the form of contract to be used or changes are needed to the standard form of contract used by the Council.

5.3.65 The Contract Monitoring Officer must inform the Head of Financial Services or Strategic Procurement Manager of the contract and must record the details of all contracts in the Contracts Register.

5.3.66 Officers must keep written records of each contract, including all the quotes and letters they have received and notes of telephone calls and meetings about selecting suppliers. These records must be made available to internal or external audit as required by them.

Publication of Contract Details

5.3.67 Officers must not give tenderers or suppliers any information about the bids or affairs of any other tenderer or contractor unless the law requires it. All information relating to tendering and contracting procedures is confidential.

5.3.68 The only information officers should make public is the name of the successful tenderer. However, this information must not be released until the contract has been awarded and signed.

5.3.69 If information is published on the amounts of the other bids received, the names of the unsuccessful tenderers must not be disclosed. Officers should ensure that all tenderers are aware that this information will or may be published when they are invited to tender and that the Council will need to meet its obligations under the Freedom of Information Act.

6. EUROPEAN PROCUREMENT RULES

6.1 Introduction

6.1.1 Whilst European procurement rules prevail, officers are expected to follow the principles set out in the Council’s Contract Procedure Rules.

6.1.2 The European procurement rules are complex with significant penalties if the legislative requirements are not strictly adhered to. All officers are therefore responsible for seeking advice and guidance at all stages of the process from the Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services.

6.2 European Limits

6.2.1 The following table sets out the public sector thresholds for 1st January, 2008 to 31st December, 2009:

	Supplies	Services	Works
Public Sector Contracting Authorities	£139,893	£139,893	£3,497,313
Indicative Notices	£509,317	£509,317	£3,497,313

6.2.2 The figures are revised every two years on 1st January and officers should check with the Head of Legal & Democratic Services for the latest values.

6.2.3 If a contract for supplying goods or services will be worth more than the limits set out in the table above, the contract is likely to be governed by EC Directives and English Regulations.

6.2.4 The value limits apply to individual contracts and groups of contracts with similar characteristics that are to be agreed in the same year. Contracts with similar characteristics have to be added together to see whether they have reached the value limits. This is to prevent organisations packaging similar contracts into small units to avoid the rules.

6.2.5 Individual contract values are calculated as follows:

- a) If the contract is part of a series or is renewable, its value will be:
- The value given in the previous financial year (over a 12-month period).
- Or
- The estimated value over the next 12 months from the date the goods, work or service is first provided.
- b) If the contract is for a fixed term of less than four years, the value will be the total value of the contract.
- c) If the contract has no end date or is for a fixed term of more than four years, the value will be the monthly value of the contract multiplied by 48.

6.2.6 If more than one of the above applies, the method that gives the highest value must be used. Again this is to prevent organisations by-passing the rules by choosing a calculation that puts a contract or group of contracts below the value limit.

6.2.7 Once the value of each contract has been calculated, it must be added to the value of other contracts with similar characteristics. If the value of a contract or group of contracts with similar characteristics is greater than the value limit, European procurement rules must be followed. To ensure that the aggregation rules are properly applied, Contract Monitoring Officers should liaise with the Strategic Procurement Manager for all contracts in excess of £50,000.

6.2.8 **Before going any further with a European procurement process, officers must discuss the next steps with the Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services.**

6.3 Awarding Contracts Subject to European Procurement Rules

6.3.1 Before issuing an award notification, or if contact is made by an unsuccessful tenderer at any time during the standstill period, contact the Head of Financial Services or Strategic Procurement Manager or your external procurement consultants for advice.

6.3.2 To ensure compliance with European procurement rules there must be a **minimum** standstill period of 10 calendar days between advising all tenderers of the award decision and the actual award of the contract. This 10-day standstill period incorporates other specific deadlines that can result in the standstill period being extended.

6.3.3 The standstill period is to allow unsuccessful tenderers an opportunity to challenge any award decision. Where a legal challenge is made within the 10-day standstill period, the contract cannot be awarded until the outcome of the application to court is known. **It is imperative that any correspondence amounting to an acceptance letter is not issued during this period.**

6.3.4 The written notification to the unsuccessful tenderers which triggers the standstill period **must** contain:

- a) The award criteria.
- b) The tenderer's score (where appropriate).

c) The winning tenderer's score (where appropriate).

d) The name of the winning tenderer.

6.3.5 The European procurement rules require tender results to be published in the Official Journal within 48 days of the date a contract is awarded. This must be done in consultation with the Head of Legal & Democratic Services.

6.3.6 The Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services must be consulted on all EU procurements.

7. FRAMEWORK CONTRACTING

7.1.1 Framework contracting involves selecting a contractor from a list of contractors on an approved "Framework" for given works, goods or services. The contractors are included on the Framework following a tendering exercise to establish capability, quality and value. The tendering procedures will have had to comply with any relevant English or European law.

7.1.2 Purchasers can enter into subsequent 'call-off' contracts from a Framework. Framework contracting is becoming increasingly prevalent in an attempt to avoid bureaucracy and achieve best values via economies of scale.

7.1.3 Frameworks can be externally formed (e.g. by Government) or internally formed (e.g. by the Council). The number of approved contractors on a Framework can vary but the minimum number should be three. Frameworks should not be confused with internal Approved Contractor Registers.

7.1.4 When an external Framework is formed general terms and conditions are agreed between the Framework contractors and the Framework organiser. These pre-agreed terms and conditions will form a major part of any purchasers' 'call-off' contract and contractors are not obliged to agree to any amendments to them.

7.1.5 From the 1st January 2006, **EU Procurement Directive 2004/18/EC** has governed the process under which contracts under Frameworks are to be awarded and in the interests of competition has placed a maximum duration of 4 years on any Framework (unless special justification can be made for a longer period).

7.1.6 Officers must take the following steps to ensure compliance with EU Procurement Directive 2004/18/EC when using a Framework contract created since the 1st January 2006:

a) All the contractors on a Framework that are capable of meeting the purchaser's specification must be allowed to submit a bid against that specification.

b) The reasons for selecting a smaller number of contractors on a Framework must be clearly evidenced.

c) Award of contract must be on the basis of the criteria for the Framework as set out in the Framework agreement itself, that is, within the original tender documentation setting up the Framework.

7.1.7 The Head of Financial Services or Strategic Procurement Manager and the Head of Legal & Democratic Services must be consulted on all Framework contract procurements.

8. OTHER PROCUREMENT PROCEDURES

- 8.1 There are a number of other procurement procedures that may be available in particular circumstances:
- a) Design contests, particularly in the fields of planning, architecture, civil engineering and information technology.
 - b) Public housing schemes where the size and complexity of schemes necessitate the close collaboration between the Council and Contractors.
 - c) Concession contracts where contractors derive income from the completed work, for example a toll bridge.
- 8.2 The Head of Financial Services or Strategic Procurement Manager and Head of Legal & Democratic Services must be consulted regarding any proposals to follow any such procedures.

9. CONTRACTS UNDER SEAL

- 9.1 All contracts for building, engineering (excluding highway maintenance), property repairs and property maintenance works with an estimated value in excess of the European procurement limit for supplies and services (currently £140,000) shall be sent to the Head of Legal & Democratic Services for execution under the Council's seal.

10. EXEMPTIONS FROM THE COUNCIL'S CONTRACT PROCEDURE RULES

- 10.1 Exemptions from the Council's Contract Procedure Rules are only allowed in exceptional circumstances such as there being insufficient suppliers for the goods, works or services being procured. Permission must be obtained for any exemption from the Head of Financial Services or Strategic Procurement Manager **and** Head of Legal & Democratic Services. Major contracts may be subject to the European procurement rules and the Head of Legal & Democratic Services cannot provide an exemption from those requirements.
- 10.2 A written application for an exemption from the Council's Contract Procedure Rules must be made to the Head of Legal & Democratic Services setting out the reasons for the application. The Head of Legal & Democratic Services must respond within 21 days. If agreed by the Head of Legal & Democratic Services, the exemption must be approved in accordance with the Council's Constitution.
- 10.3 Tenders need not be invited in accordance with the provisions of section 5 of the Council's Contract Procedure Rules if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least two quotations must be obtained and the provisions within the Council's Financial Procedure Rules for making urgent decisions must be followed.

Mini Guide to Asset Management

1. USING THIS GUIDE

- 1.1 This 'mini guide' aims to help you navigate your way around the Council's formal policies and procedures for acquiring, occupying or selling land and property assets. It **does not** replace section 3 of the Council's Financial Procedure Rules which deals with asset management, nor does not apply to schools. Schools need to follow procedures agreed by the Schools Forum.

2. HEREFORDSHIRE'S APPROACH TO ASSET MANAGEMENT

- 2.1 Herefordshire's property services has until recently focused on the more day-to-day issues related to buying, occupying or selling a building. Property services have tended to be reactive, trying to support the needs of individual services as issues arise.
- 2.2 A modern local authority needs to manage its land and property assets in a much more strategic way to ensure that they are fit for purpose and represent best use of Council Tax payers' money.
- 2.3 Councils are much more likely to achieve this if they treat their land and property assets as a corporate resource, balancing overall priorities for meeting community needs with and individual service needs. After all, a council's first duty is to its community as a whole and then to the sections of the community it provides services to.
- 2.4 To this end, Herefordshire has reshaped its property function to create an Asset Management & Property Service, and the Council's procedure rules for acquiring, occupying and selling land and asset properties have been reviewed to support this more strategic approach.
- 2.5 Three officer working groups support the corporate approach to asset management. These groups create the links across the Council to ensure cohesion and more effective use of physical assets such as land and property.
- 2.6 The **Corporate Asset Strategy Group** is chaired by the Director of Resources. It develops proposals on the strategic direction for asset management as outlined in the Asset Management Plan approved by Cabinet on an annual basis. All Directorates are represented on this group and its role is to assess what if any impact a proposal from a service to acquire, alter or dispose of an asset has on the agreed strategic approach.
- 2.7 The **Capital Strategy and Monitoring Group** is chaired by the Head of Financial Services. It monitors progress with the approved capital programme, manages the process for preparing capital spending proposals and makes recommendations to Cabinet on new schemes to be included in the capital programme.
- 2.8 The **Strategic Asset Review Group** is chaired by the Head of Asset Management & Property Services. It helps Directorates / services to achieve a fit for purpose, sustainable asset base. It reviews service proposals to acquire, change or dispose of assets to ensure they represent the most effective use of the Council's land and property assets. It also reviews the Council's property portfolio to ensure its use is optimised.

Mini Guide to Asset Management

3. SOME KEY POINTS

- 3.1 The assets used to support service delivery belong to the Council as a whole, not the individual service that works from them or uses them in service delivery.
- 3.2 The Director of Resources has overall responsibility for the asset management and property services function.
- 3.3 The head of profession for asset management is the Head of Asset Management & Property Services.
- 3.4 The Head of Asset Management & Property Services' role is to provide service managers with advice and guidance on the use of assets so that the Council meets its statutory obligations and makes best use of its land and property assets.
- 3.5 Service managers have the discretion to manage the assets they use to promote effective service delivery. However, they must seek and have proper regard to advice provided by the Head of Asset Management & Property Services if changes to an asset, the Council's interest in it or the way it is used are proposed.
- 3.6 Capital receipts from the sale of surplus assets are treated as a corporate resource and they will be allocated in line with agreed corporate priorities. Disposal of a surplus asset will produce a benefit to the service as premises related costs are minimised.

4. HOW TO ACQUIRE, CHANGE OR DISPOSE OF AN ASSET

- 4.1 The charts on the following pages outline the process service managers must follow when thinking about acquiring, changing or disposing of an asset.

Mini Guide to Asset Management

ACQUIRING AN ASSET	
1. Needs Analysis	<p>1.1 Service managers shall prepare a robust business case for acquiring a new asset that:</p> <ol style="list-style-type: none"> a. Provides a clear analysis of need. b. Quantifies the service improvements that will result. c. Shows how the proposal supports corporate and service priorities. d. Identifies the risks, who will manage them and how. e. Provides a full financial appraisal including whole life and opportunity costs. <p>1.2 A full financial appraisal of all options must be prepared for acquisitions that are likely to cost more than £140,000 or have a whole life or opportunity cost of more than £140,000.</p> <p>1.3 The Head of Asset Management & Property Services and Head of Financial Services are to be consulted and proper regard given to their asset management and financial advice in preparing the business case.</p>
2. Consultation	<p>2.1 The service manager shall liaise with the Head of Asset Management & Property Services with regard to consulting the Strategic Asset Review Working Group on their proposal. This will only be necessary when it is considered that the proposal has the potential to impact on other services or presents an opportunity for more effective use of resources.</p> <p>2.2 The Head of Asset Management shall advise the service manager on whether the proposal needs to be considered by the Corporate Asset Strategy Group. This will only be necessary when it is considered that the proposal has the potential to impact on the Asset Management Plan approved by Cabinet.</p> <p>2.3 The service manager shall liaise with the Head of Financial Services with regard to consulting the Capital Strategy & Monitoring Group. This will only be necessary if the proposal represents a potential change to the approved capital programme.</p>
3. Approval	<p>3.1 The service manager must ensure the proposal has been formally approved in line with the Council's Constitution if it is not already included within the Asset Management Plan and relevant budgets approved by Cabinet (as adjusted in accordance with Section 11 of the Financial Procedure Rules on Budgetary Controls).</p> <p>3.2 Cabinet approval must be sought if the proposal involves purchasing an asset using compulsory powers.</p> <p>3.3 The Head of Legal & Democratic Services can advise on the correct decision making process for the proposal in question.</p>
4. Implementation	<p>4.1 The service manager must provide written confirmation that the consultation and approval processes have been complied with.</p> <p>4.2 The Director of Resources or nominated representative has delegated authority to determine and settle the acquisition in consultation on behalf of the services manager in consultation with the Head of Legal & Democratic Services.</p>

Mini Guide to Asset Management

OCCUPYING AN ASSET	
1. Responsibilities	<p>1.1 Service managers are to manage the land and property assets used in delivering their services in an efficient manner.</p> <p>1.2 Service managers are to consult the Head of Asset Management & Property Services on all proposals to change the way in which property is used or to change the property itself to ensure that all statutory requirements are met and that landlord's permission in the case of leased or rented properties is sought.</p>
2. Needs Analysis	<p>2.1 Service managers shall prepare a robust business case for change of use or adaptation of an existing asset that:</p> <ol style="list-style-type: none"> a. Provides a clear analysis of need. b. Quantifies the service improvements that will result. c. Shows how the proposal supports corporate and service priorities. d. Identifies the risks, who will manage them and how. e. Provides a full financial appraisal including whole life and opportunity costs. <p>2.2 A full financial appraisal of all options must be prepared for adaptations that are likely to cost more than £140,000 or have a whole life or opportunity cost of more than £140,000.</p> <p>2.3 The Head of Asset Management & Property Services and Head of Financial Services are to be consulted and proper regard given to their asset management and financial advice in preparing the business case.</p>
3. Consultation	<p>3.1 The service manager shall liaise with the Head of Asset Management & Property Services with regard to consulting the Strategic Asset Review Working Group on their proposal. This will only be necessary when it is considered that the proposal has the potential to impact on other services or presents an opportunity for more effective use of resources.</p> <p>3.2 The Head of Asset Management shall advise the service manager on whether the proposal needs to be considered by the Corporate Asset Strategy Group. This will only be necessary when it is considered that the proposal has the potential to impact on the Asset Management Plan approved by Cabinet.</p> <p>3.3 The service manager shall liaise with the Head of Financial Services with regard to consulting the Capital Strategy & Monitoring Group. This will only be necessary if the proposal represents a potential change to the approved capital programme.</p>
4. Approval	<p>4.1 The service manager must ensure the proposal has been formally approved in line with the Council's Constitution if it is not already included within the Asset Management Plan and relevant budgets approved by Cabinet (as adjusted in accordance with Section 11 of the Financial Procedure Rules on Budgetary Controls).</p> <p>4.2 Cabinet approval must be sought if the proposal involves purchasing an asset using compulsory powers.</p> <p>4.3 The Head of Legal & Democratic Services can advise on the correct decision making process for the proposal in question.</p>
5. Implementation	<p>5.1 The service manager must provide written confirmation that the consultation and approval processes have been complied with.</p> <p>5.2 The Director of Resources or nominated representative will implement the agreed change of use or adaptation to the property.</p>

Mini Guide to Asset Management

DISPOSING OF AN ASSET	
1. Needs Analysis	<p>1.1 Service managers are responsible for letting the Director of Resources or Head of Asset Management & Property Services know if they think an asset is surplus to requirements.</p> <p>1.2 The Director of Resources is also responsible for identifying assets that may be surplus to requirements from an operational or opportunity point of view.</p>
2. Consultation	<p>2.1 The Head of Asset Management & Property Services shall be asked for advice with regard to consulting the Strategic Asset Review Working Group on the proposed disposal. This will only be necessary when it is considered that the proposal has the potential to impact on other services or presents an opportunity for more effective use of resources, either in the short or long term.</p> <p>2.2 The Head of Asset Management shall advise whether the proposal needs to be considered by the Corporate Asset Strategy Group. This will only be necessary when it is considered that the proposal has the potential to impact on the Asset Management Plan approved by Cabinet.</p> <p>2.3 The Head of Financial Services shall be asked for advice with regard to consulting the Capital Strategy & Monitoring Group. This will only be necessary if the proposal represents a potential change to the approved capital programme.</p>
3. Approval	<p>3.1 The service proposal must be formally approved in line with the Council's Constitution if it is not already included within the Asset Management Plan and relevant budgets approved by Cabinet (as adjusted in accordance with Section 11 of the Financial Procedure Rules on Budgetary Controls).</p> <p>3.2 The Head of Legal & Democratic Services can advise on the correct decision making process for the proposal in question.</p>
4. Implementation	<p>4.1 The service manager must demonstrate in writing that the consultation and approval processes outlined in 6.2 and 6.3 have been complied with.</p> <p>4.2 The Director of Resources or nominated representative then has delegated authority to act on that instruction and dispose of the asset in a manner most likely to secure best price.</p>

Mini guide to financial management

1. How to use this Mini Guide

- 1.1 This mini guide aims to help you navigate processes to follow when managing finances. It also gives a brief overview to help you get started. It does not replace the Council's Financial Procedure Rules.

2. What is Financial Management?

- 2.1 A catch all term covering the way budgets are managed, planned and deployed to deliver a service or an activity.

3. Ten Questions to ask before getting started

- 3.1 Are you a recognised budget holder?
- 3.2 Are your clear your financial management responsibilities and have you agreed them with your manager?
- 3.3 Where on the financial system is the budget?
- 3.4 How will I know what I am spending or receiving in income?
- 3.5 Who supplies my financial information?
- 3.6 How often will I meet the financial services support staff?
- 3.7 Can I interpret the financial statements I receive?
- 3.8 Do I need access to the Council's financial system and if so, what skills will I need?
- 3.9 Have I attended the Council's financial management courses?
- 3.10 Do I understand the procurement rules?

4. Tips for successful Financial Management

- 4.1 Good financial management should ensure that:
 - 4.1.1 Staff in charge of delegated budgets have clear guidance on the size of the budgets, what they may be used for and how far they can be varied.
 - 4.1.2 Specific authority is obtained for expenditure when the amount is in excess of the budget holder's signing limit.
 - 4.1.3 Actual income and expenditure is regularly monitored against budgetary provision and corrective action taken if an overspend is projected.
 - 4.1.4 Managers operating budgets must do so in accordance with the Council's overall financial procedures including the taking on of commitments e.g. ordering goods and services, making grant offers and entering into contracts.
 - 4.1.5 Staff involved in authorising and making payments have clear instructions on the procedures they must follow including the prepayment checks to be made.
 - 4.1.6 All financial management instructions are up to date, that they provide adequate separation of duties and otherwise contain appropriate provisions to combat the possibility of fraud.
 - 4.1.7 Financial management is monitored to ensure compliance with financial procedures and that it is working effectively.
 - 4.1.8 Budget holders receive regular and understandable statements that include a projected year-end position.

Mini guide to financial management

5. Budget Monitoring

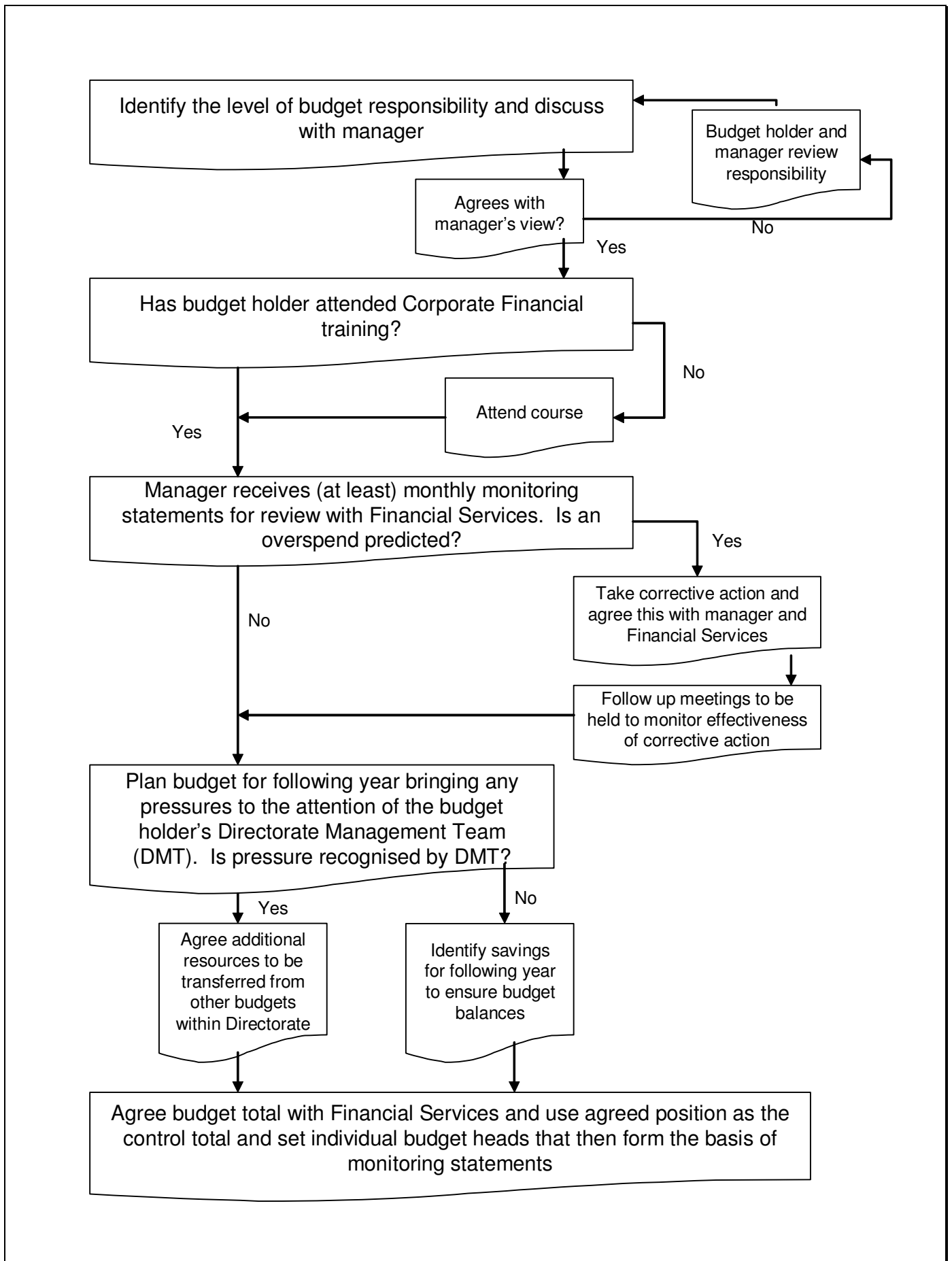
- 5.1 Effective budget monitoring provides vital information about spending patterns and makes realistic forecasts of year-end under or overspends. It is essential to closely monitor the budget, by comparing actual income and expenditure to the budget on a regular basis throughout the financial year. Reviewing the variances will highlight any problems and if remedial action is required.
- 5.2 The Budget Holder should review a regular budget monitoring report, showing income and expenditure against budget. The report should include all known commitments and creditors, to show where orders have been placed but the goods or services have been received but payment has not been made.
- 5.3 The monitoring report is produced to identify significant variances between the actual income/expenditure and budget. The reasons behind these variances should be investigated and documented. Corrective action should be taken as appropriate and recorded.
- 5.4 It is essential to budget monitoring that budgets are profiled correctly, the budget profile presents the likely spending pattern over 12 months of the year.
- 5.5 Individual budget holders should receive regularly monthly reports detailing actual expenditure against budget. The individual budget holders should review the business position and take remedial action where necessary. The review results should be communicated to the budget holder's manager who should assess the adequacy of the review and remedial action required.

6. Help and Advice

For help and advice contact your Financial Services representative.

David Powell	Head of Financial Services	3173
Greg Evans	Management Accounting Manager	1848
Heather Foster	Technical Accounting Manager	0284
Malcolm Green	Children's & Young Peoples Service Finance Manager	0818
Dean Hogan	Strategic Procurement & Efficiency Manager	0043

Budget Management Flowchart



Mini Guide to Procurement

1. How to use this Mini Guide

- 1.1 Use this mini guide whenever you are involved in procurement. It provides you with a quick check of the procurement processes you should follow when buying on behalf of Herefordshire Council. It does not replace the Contract Procedure Rules but provides a brief overview to help you to get started.

2. Important Issues

- 2.1 Before you start, check that the important issues have been considered – confirming the availability of budget provision; following guidelines on procurement ethics; aiming to achieve value for money; making best use of framework agreements and ensuring that the correct procurement procedures are carried out.

3. Questions to Consider

- 3.1 Look at the questions a procurer needs to ask – they will help you to make fundamental decisions about how to proceed. If you find that answers to any of these questions suggest areas of weakness, seek advice (see below).

4. Process Models

- 4.1 See the process models for the steps to take with contracts below a value of £10,000, contracts with a value between £10,000 and £50,000, and contracts with a value above £50,000. If you have a contract with a value greater than the current EU limits (£140,000) you must contact the Corporate Procurement Team. (Note: contract value is the total value of a contract, not annual value, excluding VAT).

5. Help and Advice

- 5.1 For sources of help and advice within the Council you can email the Strategic Procurement and Efficiency Review Manager (dhogan@herefordshire.gov.uk) or contact him on 01432 260043.

6. Questions a Procurer needs to ask...

- 6.1 Are the goods, services or works really required?
- 6.2 Do they contribute to the objectives of the Directorate and the Council?
- 6.3 Is a procurement necessary to acquire them? Could they be borrowed, shared or provided in-house?
- 6.4 Are they a priority? Could the money be better spent elsewhere?
- 6.5 Is this the right time to make the procurement? Might resources be available later, might the market change, are there potential major risks that might become clearer?

Mini Guide to Procurement

- 6.6 What quality level is needed (rather than desired)?
- 6.7 What will be the total cost, including maintenance, consumables, installation, in-house management, etc?
- 6.8 Can the environmental impacts be reduced? - raw materials (using substitutes), running costs and emissions (being energy efficient), disposal (re-usable or recycled option).
- 6.9 Can the cost and resource implications of the procurement exercise be justified? Can the cost be reduced? Can it be included in a similar procurement elsewhere in the council?
- 6.10 Is the budget available?
- 6.11 Is the necessary technical expertise available in house? How can it be obtained?
- 6.12 Are the resources available for the procurement?
- 6.13 What are the latest developments in the market and might they benefit the Council?
- 6.14 Who will be affected by the procurement and how can they best be involved in the decision making process?
- 6.15 What are the risks affecting the procurement and how will these be managed?
- 6.16 Are you competent to carry out the procurement in order to meet all legal requirements and to achieve the best value for money for the Council?

7. Ten Top Tips for a Successful Procurement Process...

- 7.1 Spend Plenty of Time Planning
 - 7.1.1 Consider at the outset the full extent of who needs to be involved, what needs to be done, by whom, and by when. Seek advice from others.
 - 7.1.2 Establish a complete procedure timetable from consultation period through to contract award, ensuring that adequate time is allowed.
- 7.2 Establish Roles and Responsibilities
 - 7.2.1 Establish roles and responsibilities of all involved.
 - 7.2.2 Get everyone to contribute to the planning process.
- 7.3 Ensure Transparency of Proceedings
 - 7.3.1 Be seen to be fair and conduct the process without favouritism.

Mini Guide to Procurement

- 7.3.2 Engage widely with stakeholders and existing contractors in advance of formal proceedings.
- 7.3.3 Get all internal players to contribute to the critical success factors and key evaluation criteria and record these!
- 7.3.4 Allow sufficient time for suppliers to submit tenders.
- 7.4 Observe Legalities
 - 7.4.1 Ensure compliance with EC Procurement Directives, domestic legislation, Contract Procedure Rules etc. Seek legal advice and involvement in the process at the outset. You are initiating events that will result in a contract. It has to be legal!
- 7.5 Accommodate Innovation and Secure Best Value
 - 7.5.1 Don't be too restrictive with suppliers. Don't be too prescriptive in how you want the work to be delivered. Describe the 'outcomes' you require.
 - 7.5.2 Try to find ways specialist suppliers and contractors can contribute their expertise; allow tenderers to innovate and offer you their best solutions.
 - 7.5.3 Make sure you secure Best Value, not just the lowest tender price.
- 7.6 Prepare Sound and Complete Tender Documents
 - 7.6.1 Specify clearly what you want and describe in detail how tenderers are to price their submissions – and whether VAT is included.
 - 7.6.2 Give thought to various pricing mechanisms (i.e. lump sum or schedules of rates) and how good these will be at accommodating change.
 - 7.6.3 The more information you provide, the greater your chances of success.
- 7.7 Consider Monitoring Payment Arrangements at the Outset
 - 7.7.1 Be clear as to how payments are to be calculated. Make payments on time.
 - 7.7.2 Establish monitoring procedures, which are required to satisfy the Council.
 - 7.7.3 Consider default procedures, performance incentives and profit sharing.
 - 7.7.4 Incorporate these processes into the tender documents.
- 7.8 Ensure Procedures Provide for Probity and Accountability
 - 7.8.1 Ensure the whole process is documented and recorded, and that all key documents are signed, dated and retained.

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7.8.2 Communicate all decisions to the whole team.

7.9 Think Before You Act

7.9.1 Review your plans before commencing and don't rush things.

7.9.2 Think, "What can go wrong?" and put possible contingencies in place.

7.10 Learn From the Process

7.10.1 Learn, experiment, and don't fear mistakes. Ask "How could it be improved next time?"

7.10.2 Develop your skills.

8. **Formal Quotation and Tendering Process**

8.1 West Mercia Supplies (WMS) or their supply partners must be used for all purchases of office supplies and consumables, furniture, photocopiers, janitorial supplies and personal protective equipment.

8.2 Proposals to use an alternative supplier for such goods must be approved prior to an order being placed using a form prepared by the Strategic Procurement and Efficiency Review Manager.

8.3 Requests to use an alternative supplier to WMS will be approved or otherwise by the Head of Financial Services.

8.4 Failure to comply with the Council's policy on the use of WMS will lead to a corresponding budget reduction.

8.5 Officers must also use Council approved strategic service delivery partners such as Amey Wye Valley Limited and Owen Williams where appropriate to do so.

8.6 Procurement of ICT equipment must be achieved using the Council's online procurement system

8.7 The following procedures must be followed for all other types of procurement:

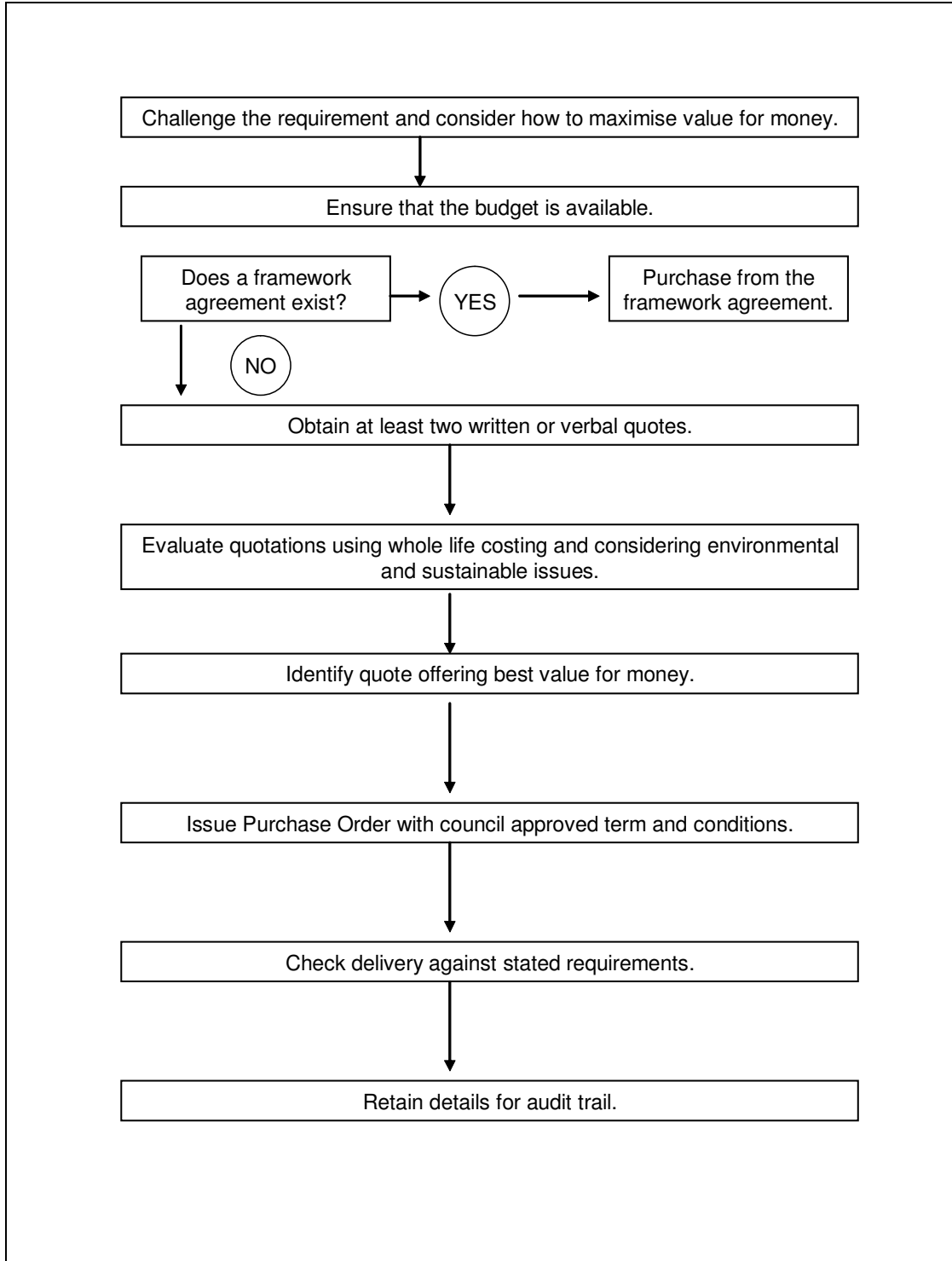
- a) Purchases in total valued less than £1,000 – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the Council's Contract Procedure Rules have been followed.
- b) Purchases in total valued between £1,001 and £10,000 – two formal quotations must be obtained (see attached flowchart).
- c) Purchases in total valued between £10,001 and £50,000 – three formal quotations must be obtained (see attached flowchart).

Mini Guide to Procurement

- d) Purchases in total valued between £50,000 and up to relevant EU limit (£140,000) – formal tendering arrangements must be followed (see attached flowchart).
- e) Purchases in total valued in excess of relevant EU limit (£140,000) – European procurement rules must be followed (see attached flowchart).

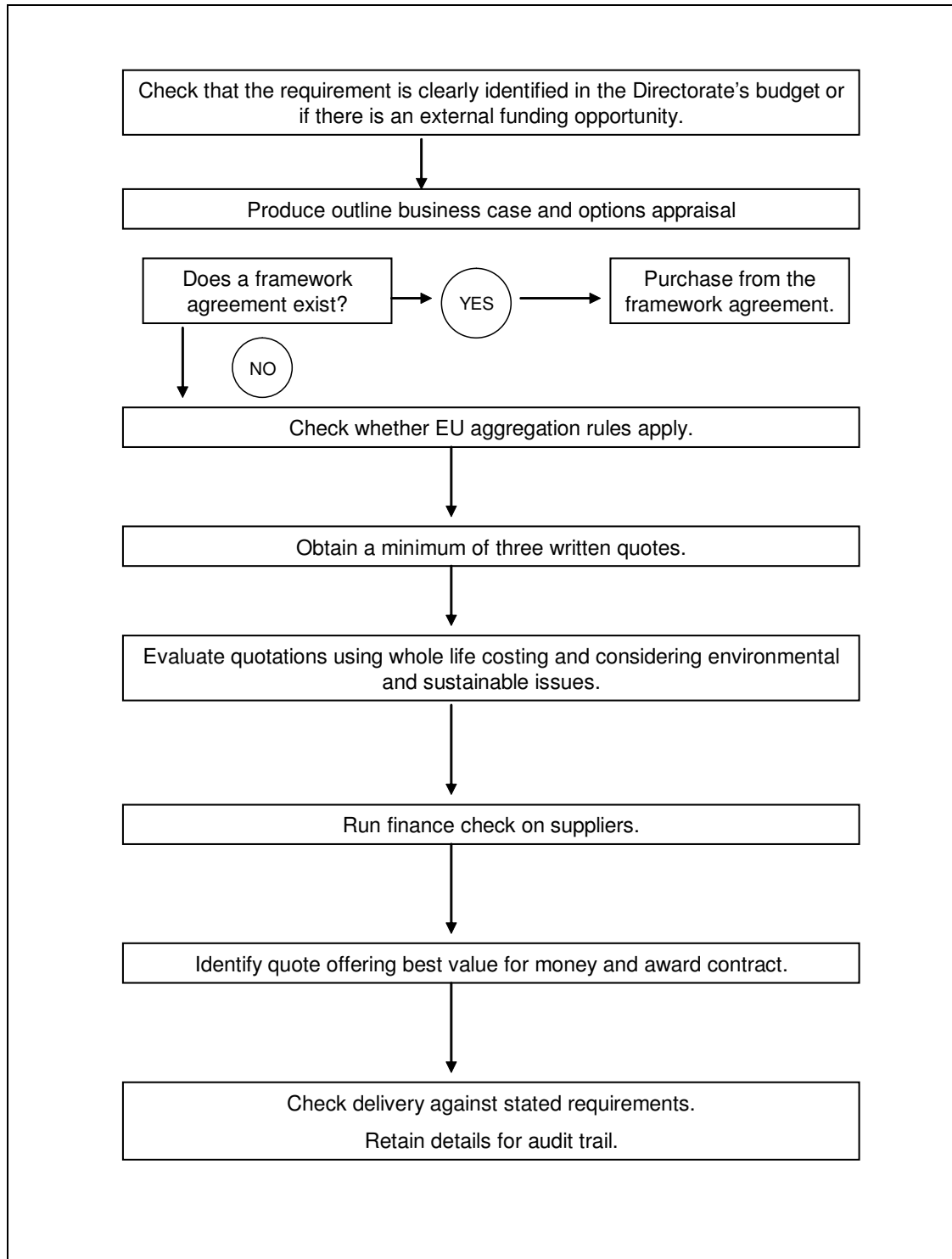
Mini Guide to Procurement

Contracts with a value below £1,000



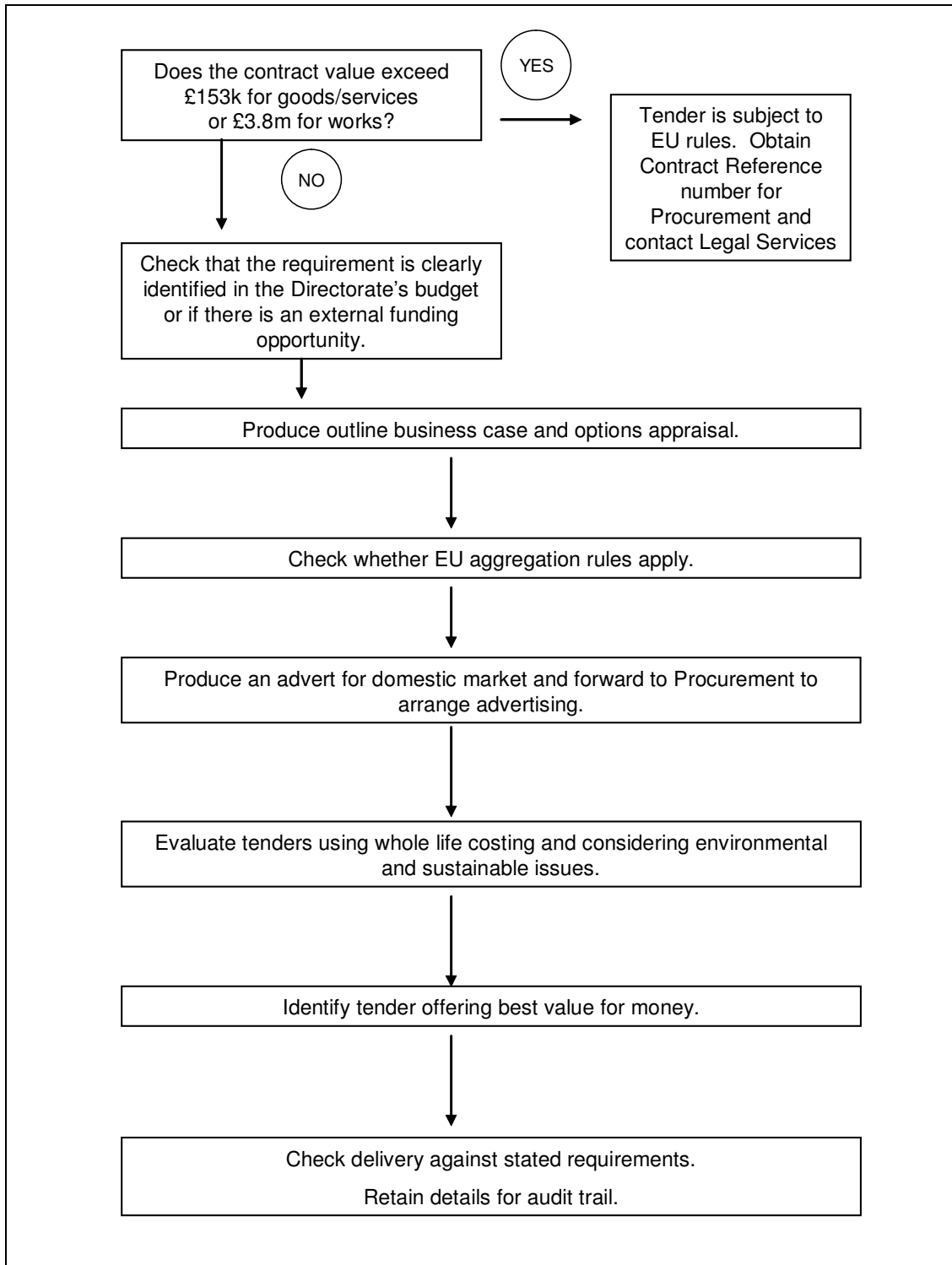
Mini Guide to Procurement

Contracts with a value between £1,001 and £50,000



Mini Guide to Procurement

Contracts with a value between £50,001 and up to relevant EU input (£140,000)



EDGAR STREET GRID DEVELOPMENT – SELECTION OF PREFERRED FIRST PHASE DEVELOPMENT PARTNER

PROGRAMME AREA RESPONSIBILITY: ECONOMIC AND COMMUNITY SERVICES

CABINET

28 FEBRUARY 2008

Wards Affected

Central.

Purpose

To approve the selection of the preferred developer for the Edgar Street Grid Retail Quarter and authorise detailed negotiations with that supplier prior to consideration of a full Development Agreement.

Key Decision

This is a key decision as it is likely to be significant in terms of their effect on communities living or working in Herefordshire in an area comprising one or more wards.

It was not included in the Forward Plan however inclusion in the agenda gives the required notice in accordance with Section 15 of the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000.

Recommendation

THAT: Cabinet

- a) **agrees the selection of Stanhope as the preferred Retail Quarter Development Partner;**
- b) **authorises the Director of Adult & Community Services, in consultation with relevant officers, to complete negotiations regarding a Heads of Term agreement;**
- c) **authorises the Head of Legal & Democratic Services to sign a Heads of Terms agreement with the preferred development partner following satisfactory completion of the negotiations;**
- d) **authorises the Director of Adult & Community Services, in consultation with the Director of Resources, Head of Legal & Democratic Services and ESG Herefordshire Ltd, to undertake further negotiations regarding a Development Agreement; and**
- e) **notes that a further report will be brought to Cabinet, on completion of the further negotiations regarding a Development Agreement, setting out the detailed financial implications, and seeking approval to enter into a Development Agreement before it is finalised with the preferred developer.**

Reasons

The Retail Quarter is the first element of the Edgar Street Grid (ESG) redevelopment to come forward for development. The developer selection process requires Herefordshire Council to approve the selection of the preferred developer of the Retail Quarter. The ESG Herefordshire Ltd Board and Advantage West Midlands (AWM) have been involved in the selection process. This report sets out the process that has been followed in the procurement of a Retail Quarter developer. The process demonstrates that it has been robust and independent; and that the preferred developer has been selected on technical and financial merits that justify preferred developer status. Once selected, negotiations must be undertaken with the preferred supplier to establish the detail of the future scheme to be incorporated in a Development Agreement. This will be the subject of a future report to Cabinet.

Considerations

1. ESG Herefordshire Ltd is a joint venture company set up, following Cabinet approval on 15th July 2004, by Herefordshire Council and Advantage West Midlands (AWM) to coordinate the redevelopment of the 100-acre (40.7 hectares) Edgar Street Grid site in Hereford. The Company is managed by a Board of fourteen Directors and a company secretary, overseeing the work of a small executive team. The Council is represented on the Board by the Leader and Chief Executive.
2. The Unitary Development Plan (UDP) and the subsequent Supplementary Planning Document (SPD) for the ESG development, informed by the Masterplan endorsed by Cabinet on 18th December 2003, provide a robust planning policy and design framework for the overall redevelopment of the site.
3. The Retail Quarter lies in the south western corner of the ESG area and is the first of the redevelopment sites to be brought forward to the market. The site lies immediately to the north of the inner ring road that separates the development from the City's historic core. As identified in the report to Cabinet on 18th January 2007, and shown outlined in red on the plan at Appendix 1, the site currently includes the Livestock Market and associated business premises, Garrick House, and the multi-storey and surface car parks adjacent to Garrick House.
4. The UDP and SPD identify that this entire site should be considered for redevelopment as a mixed-use site. ESG Herefordshire Ltd, with advice from AWM, Herefordshire Council and chartered surveyors Montagu Evans, determined that the appropriate method of procurement should be on the basis of competitive submissions from prospective developers.
5. In addition, Montagu Evans completed a professional retail assessment study that was used to inform the proposed development mix within the site. The suggested development mix comprised of:
 - 33,000m² of retail and leisure uses;
 - 150 bed hotel;
 - 150 residential units;
 - Circa 1,500 car parking spaces;
 - Public realm improvements.
6. It should be noted that this was an indicative mix, and prospective developers were

encouraged to conduct their own research and assessment of the potential for the site and had the freedom to propose a different combination should they feel there was a justifiable need or demand.

7. The primary principle behind the decision to appoint a developer was to attract private sector funding to deliver a project that would ordinarily be outside the scope and finances of the public sector. This brings to the process the added benefits of the developer's expertise and experience of delivering other mixed use schemes; their ability to attract top quality architects, urban designers, traffic consultants and other expert consultants; and their proven ability to negotiate with retailers and leisure providers in order to attract the best uses to the site.
8. The preferred development partner will be expected to progress a redevelopment scheme through the planning process including further community and stakeholder consultation, negotiate successfully with statutory agencies, undertake all demolition and construction of the approved scheme, let the completed scheme to retail, restaurant, and leisure providers, and manage the completed scheme in accordance with the terms and conditions of their agreement with Herefordshire Council. Throughout the construction period the developer will be required to maintain a level of car parking provision similar to that provided within the current Garrick House multi storey.
9. Herefordshire Council will be required to deliver a 'vacant site' for the development partner to take over when starting on site. (This is currently estimated to be in the spring of 2010.) This will necessitate the relocation of Hereford Livestock Market to a new site to the north east of the City, already agreed by Cabinet; the identification of, and relocation to, a new site for the Hereford Centre at Garrick House within the ESG Civic Quarter; and the relocation of other staff from Garrick House to alternative office accommodation.

Community Benefits

10. The proposed development mix would bring significant economic and social benefits to the county. It is calculated that approximately 1,200 new jobs will be created by the redevelopment of the Retail Quarter.
11. An important aim of the Herefordshire Unitary Development Plan (UDP) is to protect and enhance the sub-regional employment and service role of Hereford City centre. The redevelopment of the site will support this aim by aiding the retention of retail spending within Hereford, and attracting significant private sector investment into the City. It will also provide improved leisure and retail facilities for the communities of Herefordshire, and improve the tourism potential of the area.

Procurement Process

12. At its meeting on 18th January 2007 Cabinet approved the marketing of the Retail Quarter within the ESG site, and were advised that ESG Herefordshire Ltd would commence the procurement process to select a preferred development partner for the Retail Quarter.
13. All procurement in the public sector over a specified limit (currently £3.5 million) is subject to the EU Treaty principles of non-discrimination, equal treatment and transparency. The EU Public Procurement directives require contracting authorities such as Herefordshire Council to provide details of procurement in a prescribed format, which are then published in the Official Journal of the European Union

(OJEU).

14. All companies replying to an OJEU advertisement must have an equal opportunity to express interest in being considered for tendering and those companies selected to tender receive the same information on which to make their bid.
15. A four-stage process has been followed to select the preferred development partner for the retail quarter development. Legal advice on the process to be followed was secured from both the council's legal services and ESG Herefordshire Ltd's legal advisors Pinsent Masons. This has been compiled to comply with OJEU standards. The table below sets out the procurement process followed:

Stage 1.	OJEU notice published – 9 th March 2007 Submission of Pre Qualification Questionnaire (PQQ). 23 rd April 2007
Stage 2.	Long list. Selection from PQQ 18 submissions down to 7 developers. 11 th May 2007
Stage 3.	Short list. Selection from long list of 7 down to 3 developers. 18 th and 19 th June 2007
Stage 4.	Preferred developer selection from short list. February 2008

16. The site was launched to the market in March 2007 at the MIPIM Property Fair in Cannes, France as part of the AWM portfolio of investment opportunities. Potential developers were invited to submit PQQ's to register interest in the development opportunity, eighteen of which were received by ESG Herefordshire Ltd within the deadline set.
17. Seven developers were selected from the initial PQQ stage to go through to the Long List. This selection was made by a panel comprising officers from ESG Herefordshire Ltd, AWM and the council on the basis previously agreed selection criteria including the developer's track record of similar schemes; their skills and technical ability to complete the project; the familiarity with the local market conditions; and their general methodology and approach to the project.
18. The seven long listed developers underwent an evaluation process comprising of a presentation of summary proposals by the developer's technical team, followed by an interview based on framework of core questions supplemented by developer-specific questions as appropriate. Officers from Herefordshire Council, AWM and ESG Herefordshire Ltd conducted the interview and short listing process. Three developers were then invited to go forward to the Short List stage, Centros Miller, Modus, and Stanhope.
19. The three developers selected were required to work up detailed final submissions over a six month period. This included an extensive consultation process undertaken both by the three developers and by ESG Herefordshire Ltd. Members have had a number of opportunities to comment on and view the Retail Quarter proposals. Initially in early August 2007 an invite only event was held at the ESG offices to brief Members and Officers on the ESG Masterplan. This event was followed by a Members' seminar held in the Council Chamber, Brockington, and subsequently by the event at the Left Bank Village mentioned in below in paragraph 22. All Members

were invited to attend all three events.

20. To inform the development of their bids the three developers were provided with a list of contacts able to provide technical clarifications if required, and a list of stakeholders. Although whom the developers contacted was their decision they were required to make contact via ESG Herefordshire Ltd in order to maintain a record of such contacts.
21. The conclusion of the consultation process was a four-day event held at the Left Bank Village in late November 2007. This event included a mixture of public open days and invite only sessions aimed at specific groups within the local community. The developers presented their schemes through physical models and displays and were available to discuss their proposals throughout the four days.
22. To co-ordinate and assist the decision-making process a “Technical Panel” was commissioned by ESG Herefordshire Ltd, to undertake expert scrutiny of each of the bids and provide an analysis of the merits of each bid on different technical aspects.
23. The panel consisted of a core of permanent members who had been involved since the Long List stage, and a number of independent experts involved on a consultancy basis to assess specific elements of the bids. Panel membership is set out below:

Retail Quarter Technical Panel

Permanent Members	
Jonathan Bretherton	Chief Executive – ESG Herefordshire Ltd
Malcolm MacAskill	Head of Asset Management & Property Services - Herefordshire Council
Nigel Hudson	Development Team Leader - Advantage West Midlands
Expert Consultancy	
Alan Harris	Montagu Evans - Chartered Surveyors
Paul Dodd	Urban Initiatives - Masterplanners
Peter Voase	EC Harris - Cost Consultants
Chris Oakley	Crowd Dynamics - Transport Consultants

24. Prior to the commencement of the procurement process, the Board of ESG Herefordshire Ltd agreed the criteria against which each of the bids must be judged. As required by the OJEU process, the basis of assessment was notified to all three short listed developers. The assessment used a scoring matrix to evaluate various criteria within the bids; a copy of the scoring matrix used to assess the Short List bids is at Appendix 2.
25. There are five criteria within the assessment matrix, four of which are technical criteria (overall approach and vision; planning design and context; components; and phasing and delivery) accounting for 60% of the score reflecting the value placed on the quality of the proposals. The remaining criterion, accounting for the final 40% of the score, relates to the financial aspects of the bid. As the contract being procured includes a significant element of investment from the developer, it should be noted that it does not necessarily follow that the lowest financial tender will provide the best

value overall.

26. Throughout the procurement process ESG Herefordshire Ltd have sought to stress the balance between the financial and the technical factors. The technical criteria assessed the wider success of the proposals. Essential factors such as the connectivity between the Retail Quarter and the existing Retail core, any intervention strategy in High Town, and the suitability of the proposed mix of uses are as crucial as the financial considerations to the lasting success of the scheme and have been given due consideration.
27. The benefit of the matrix assessment process is that it has enabled the technical panel to determine the ranking of the bids through a robust and tested methodology and provides an auditable means of recommending a preferred developer to the Board of ESG Herefordshire Ltd and to Cabinet.
28. The permanent members of the technical panel assessed each developer's submission against the matrix. Assisting in this assessment, and adding to the individual expertise and experience of individual members, was the independent consultancy element of the panel.

ESG Herefordshire Ltd Board Recommendation

29. The technical panel confirmed that all three submissions met the parameters set out in the original brief and, as a minimum, accommodated the suggested development mix as outlined in paragraph 7. All three bids were of high quality and would provide a suitable end development for the Retail Quarter.
30. The table below shows the ranking of each of the three bids against the 5 criteria.

Criteria	Weighting	Centros Miller	Modus	Stanhope
Overall approach & vision	15%	3	2	1
Planning, design & content	20%	1	3	2
Components	10%	1	3	2
Phasing & delivery	15%	3	2	1
Financial	40%	3	2	1

31. The Board of ESG Herefordshire Ltd considered the outcome of the evaluation process at its meeting on 25th February and has recommended Stanhope as preferred first phase development partner.

Next steps

32. Following confirmation of the preferred developer Heads of Terms will be negotiated and signed between the Council and the preferred developer. They will set out the basis on which the detailed negotiations regarding a Development Agreement will be undertaken.

33. Detailed negotiations regarding the treatment of the Council's assets will be held within this period to inform the development agreement. The agreement will also set out the financial considerations, contractual obligations of all parties, scheme details, and include a refreshed Masterplan.
34. A further report will be brought to Cabinet to advise of the outcome of these negotiations and seek agreement to enter into a formal development agreement.

Financial Considerations

35. Herefordshire Council owns approximately 85% of the Retail Quarter site, including the entire frontage along Edgar Street and Newmarket Street, and a large proportion of the frontage along the remaining streets. Herefordshire Council has recently acquired additional land within the site, on behalf of ESG Herefordshire Ltd, utilising AWM funding. Herefordshire Council land ownerships within the Retail Quarter are shown in Appendix 3.
36. Receipts from the preferred developer will facilitate infrastructure provision for the remainder of the ESG site, including a contribution (£5m) towards the relocation of the livestock market, provision of a replacement facility for the Hereford Centre Garrick House, construction of a new link road and associated downgrading of Blueschool Street and Newmarket Street.
37. The detailed financial implications, including asset transfer, will be negotiated through the Development Agreement process, and will be included within a further report to Cabinet before any agreement is finalised.
38. The negotiation of the Heads of Terms may require the Council to incur costs of up to £50,000 in respect of professional fees. This sum will be at risk until the Heads of Terms are finalised. On finalisation of the agreement these costs will be reimbursed by the development partner.
39. A detailed financial model for the regeneration of the Retail Quarter of the ESG project will be prepared as the Development Agreement is negotiated. Cabinet will receive a further report on the Development Agreement prior to its final determination and this report will include the detailed financial model for the project and an assessment on the implications for the Council's Medium Term Financial Strategy. The financial strategy the Cabinet is recommending to Council for adoption on 7th March 2008 aims to ensure that the Council's cash resources are allocated in line with corporate priorities such as the ESG project. It therefore highlights the fact that the ESG Project may have implications on both revenue and capital budgets as the project unfolds and more detail becomes available. Cabinet's financial strategy recognises this potential pressure by leaving capacity within both the revenue and capital budgets in the event that it is needed for this and other key corporate priorities.

Risk Management

The technical panel comprised of representatives from the three organisations with vested interests in the ESG development - Herefordshire Council, Advantage West Midlands, and ESG Herefordshire Ltd. The expertise of these representatives was backed up by specialist knowledge in specific areas by consultants appointed by ESG Herefordshire Ltd.

Independent advice has been sought throughout regarding the procurement process to be followed.

Alternative Options

To appoint an alternative developer; or not appoint any of the three short listed developers.

Either would have implications for the role and integrity of the ESG Herefordshire Ltd Board and would go against a procurement process which has already been assessed as technically robust and that follows an approved OJEU methodology.

Additionally, a decision not to progress the proposal would result both in damage to the reputation of the authority and loss of significant resources to support the regeneration of the city.

Consultees

Public and stakeholder consultation has been undertaken as part of the development of the bids.

Appendices

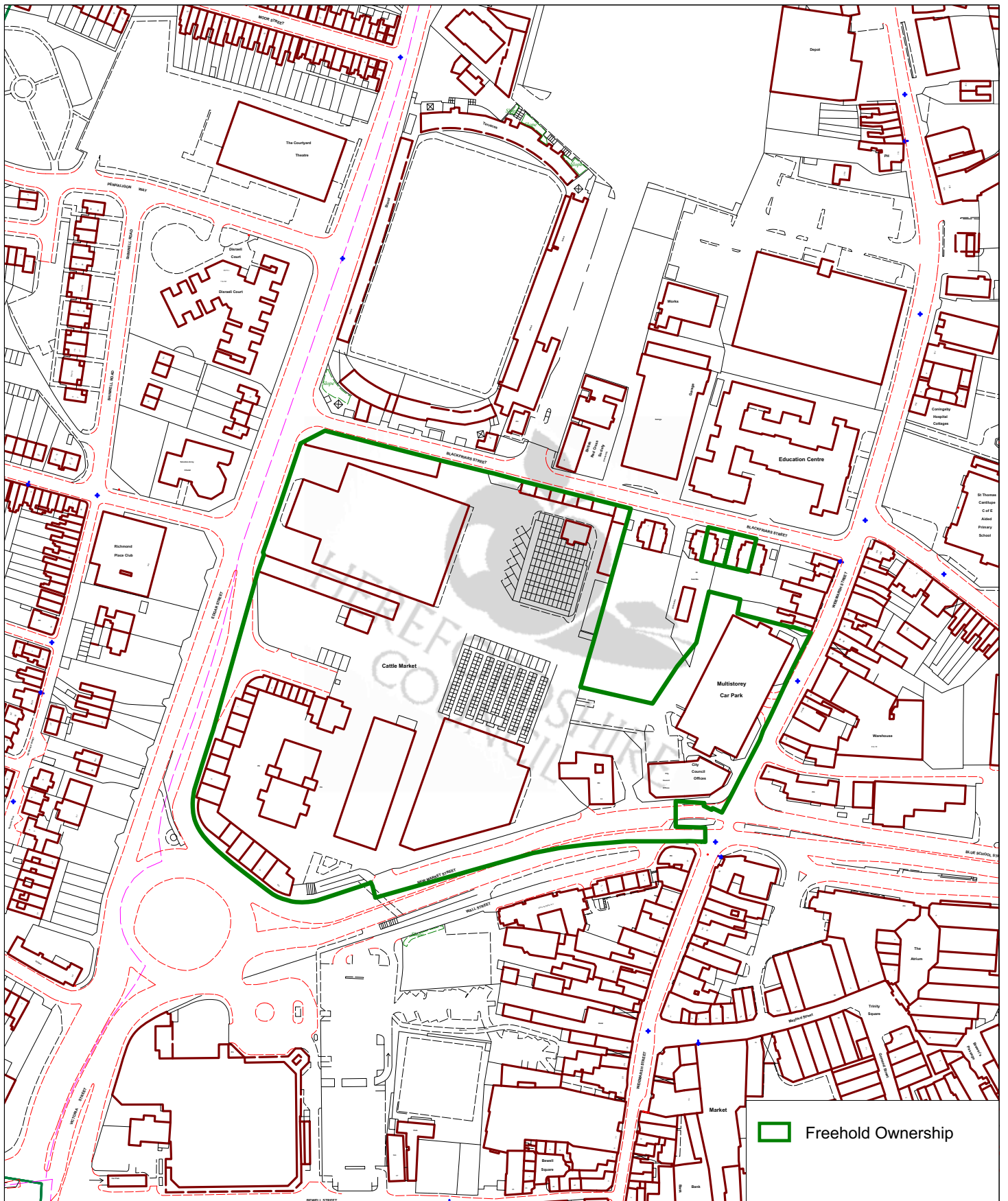
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|------------|---|
| Appendix 1 | Map of ESG Retail Quarter area. |
| Appendix 2 | ESG Scoring Matrix for final Retail Quarter Bids. |
| Appendix 3 | Herefordshire Council land and property ownerships within the Retail Quarter. |

Background Papers

None.

STAGE 3 EVALUATION PANEL CRITERIA

Criteria	Details	Weighting
Overall Approach and Vision	How the proposals fit with the overall vision for Hereford, Achieve Objectives, Ambition, Integration, Social Benefits.	15%
Planning Design and Content	Scale, massing, development form, type and form of development, function of spaces, style, quality, experience, pedestrian convenience, access, parking and sustainability.	20%
Components	Compliance with policy, robustness of transport strategy, appropriateness of uses	10%
Phasing and Delivery	Approach, implementation programme, project management, governance, legal framework, occupier strategy, risk, displacement.	15%
Financial	Funding, robustness, implications of HC revenue, best consideration	40%



Appendix 3

Herefordshire Land and Property Council Ownerships Scale 1:2500



Herefordshire Council
Property Services
Franklin House
4 Commercial Road
Hereford
HR1 2BB
Tel.: (01432) 260000
Fax.: (01432) 261892

